

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1100
Tuesday, August 27, 2013, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Henke Snyder Van De Wiele White, Vice Chair	Tidwell, Secretary	Miller Back Sparger Walker	Swiney, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, August 22, 2013, at 10:17 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

Mr. Henke explained to the applicants that there were only four board members present at this meeting, and if an applicant would like to postpone his or her hearing until the next meeting he or she could do so. If the applicant wanted to proceed with the hearing today it would be necessary for him to receive an affirmative vote from three board members to constitute a majority and if two board members voted no today the application would be denied. Mr. Henke asked the applicants if they understood and asked the applicants what they would like to do. The applicants nodded that they understood and no one stood to request a continuance.

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

MINUTES

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Tidwell absent) to **APPROVE** the **Minutes** of the August 13, 2013 Board of Adjustment meeting (No. 1099).

NEW BUSINESS

21615—QuikTrip – Joe Kim

Action Requested:

Variance of the height limitation from 50 feet to 70 feet to permit a ground sign (Section 1221.E.1). **LOCATION:** NW/c of South Harvard Avenue and East Skelly Drive (CD 9)

Presentation:

This case has been withdrawn by Staff and moved to a revision to their Corridor Development Plan under TMAPC.

Interested Parties:

There were interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required; for the following property:

A TRACT OF LAND THAT IS PART OF LOTS ONE (1) AND SEVENTEEN (17), AND ALL OF LOTS TWO (2) AND THREE (3), ALL IN BLOCK TWO (2), VILLA GROVE SUBDIVISION, A SUBDIVISION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF, SAID TRACT OF LAND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER (SE/4) OF SECTION TWENTY-NINE (29), TOWNSHIP NINETEEN (19) NORTH, RANGE THIRTEEN (13) EAST OF THE INDIAN BASE AND MERIDIAN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF; THENCE NORTH 01°27'05" WEST ALONG THE EASTERLY LINE OF SAID SE/4 FOR 965.15 FEET; THENCE SOUTH 88°34'24" WEST ALONG THE EASTERLY EXTENSION OF THE NORTHERLY LINE OF BLOCK 2, VILLA GROVE SUBDIVISION, AND ALONG SAID NORTHERLY LINE FOR 55.00 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SOUTH HARVARD AVENUE AND

THE POINT OF BEGINNING OF SAID TRACT OF LAND; THENCE CONTINUING SOUTH 88°34'24" WEST ALONG SAID NORTHERLY LINE FOR 340.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 3, THE SAME BEING THE NORTHEAST CORNER OF LOT ONE (1), BLOCK ONE (1), TRADE WINDS ADDITION, AN ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF; THENCE SOUTH 01°27'05" EAST ALONG THE WESTERLY LINE OF SAID LOT 3, THE SAME BEING THE EASTERLY LINE OF LOT 1 AND A EASTERLY LINE OF LOT 4, TRADE WINDS ADDITION, FOR 304.96 FEET TO THE SOUTHWEST CORNER OF SAID LOT 3; THENCE NORTH 88°34'50" EAST ALONG THE SOUTHERLY LINE OF SAID LOT 3, THE SAME BEING A EASTERLY OF SAID LOT 4, TRADE WINDS ADDITION FOR 110.00 FEET; THENCE SOUTH 01°27'05" EAST ALONG A EASTERLY LINE OF SAID LOT 4, TRADE WINDS ADDITION, FOR 140.56 FEET TO THE SOUTHEAST CORNER OF SAID LOT 4, TRADE WINDS ADDITION, AND A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF INTERSTATE 44; THENCE NORTH 83°33'15" EAST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 185.71 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SOUTH HARVARD AVENUE; THENCE NORTH 03°08'55" EAST ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 124.69 FEET; THENCE NORTH 05°05'43" EAST ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 306.98 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND. THE ABOVE DESCRIBED TRACT OF LAND CONTAINING 123,476 SQUARE FEET OR 2.835 ACRES, MORE OR LESS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

21615—QuikTrip – Joe Kim

Action Requested:

REFUND for the application of a Variance of the height limitation from 50 feet to 70 feet to permit a ground sign (Section 1221.E.1). **LOCATION:** NW/c of South Harvard Avenue and East Skelly Drive (CD 9)

Presentation:

This case has been withdrawn by Staff and moved to a revision to their Corridor Development Plan under TMAPC. The staff is requesting a refund of \$580.00.

Interested Parties:

There were interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Tidwell absent) to **APPROVE** the request for a **REFUND** for \$580.00.

UNFINISHED BUSINESS

21605—San Juan Gaytan

Action Requested:

Special Exception to allow New and Used Auto Sales and Tire Sales (Use Unit 17) in the CS District (Section 701, Table 1); Variance of the requirement that no merchandise may be displayed outside within 300 feet of an R District (Section 1217.C.2); Variance of the building setback from the centerline of North Lewis Avenue East from 85 feet to 43 feet for a used car and tire sales use in an existing building (Section 703, Table 2). **LOCATION:** 1417 North Lewis Avenue East (**CD 3**)

Ms. Back announced that Mr. Gaytan has requested to have his case moved to the end of the agenda to allow his interpreter time to arrive. Mr. Henke agreed on behalf of the Board.

Presentation:

No presentation was made at this time. The case was moved to the end of the agenda to allow Mr. Gaytan’s party to arrive.

Interested Parties:

Not at this time.

Comments and Questions:

None.

Board Action:

No Board action required at this time.

NEW BUSINESS

21614—Jason Mills

Action Requested:

Variance to reduce the required front yard from 25 feet to 21 feet in a RS-3 district (Section 403.A, Table 3). **LOCATION:** 1504 East 33rd Street South (CD 9)

Presentation:

Jason Mills, 10023 East 83rd Place, Tulsa, OK; stated he is an architect representing the owner of the subject property. The subject property is located south of Zink Park on the corner of Rockford and 33rd Street. The hardship is that this lot is an existing non-conforming corner lot. The house orientation has it facing Rockford but the setback for the front yard was taken off 33rd Street. The house is within ten feet of the property on the Rockford side. The owners would like to build a small bedroom addition for their growing family and want to stay in the area. What is proposed is to add a small garage addition on the north side, which required an additional four feet to make a true garage workable and allow for parking in the driveway. This will allow the bedroom to expand into part of the old garage. Mr. Mills had a picture displayed on the overhead projector depicting houses on the west side of Rockford to show that other houses in the area have the same setback as the request, and the proposed addition would not be out of character for the neighborhood.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Tidwell absent) to **APPROVE** the request for a Variance to reduce the required front yard from 25 feet to 21 feet in a RS-3 district (Section 403.A, Table 3), subject to conceptual plan 3.14. The Board has found that the legal non-conforming lot and the orientation of the existing building on the lot, including the addition to be built, will pose a variance such that by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

LT-1-&W. 20 OF LT-2-BLK-1, PARRAMORE ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21616—Daniel Schaudt

Action Requested:

Variance to permit a sign in the public right-of-way per pending approval of license agreement (Section 1221.C.14). **LOCATION:** 5757 South Memorial Drive East (CD 7)

Presentation:

Christopher Teel, 5385 North Highway 97, Sand Springs, OK; stated his business partner is Mr. Dan Schaudt and they currently operate Schaudt's Funeral and Cremation Service in Glenpool. They recently purchased the subject property, and unfortunately the funeral home sits lower than street level thus decreasing the visibility of the property from the road. They would like to place their business within 13 feet of the right-of-way of Memorial Drive. The business sign will be 13 feet wide by 6 feet tall.

Mr. Henke asked Mr. Teel if he had received his license agreement from the City of Tulsa. Mr. Teel stated that he had.

Mr. Swiney stated that he had contacted Engineering Services and they said the license agreement is being processed. Mr. Teel stated that Engineering Services had notified him three weeks ago and stated that he had to appear before the Board of Adjustment before they could complete the license agreement process.

Mr. Teel stated the business sign has been manufactured and is constructed of stucco. It is painted to match the building and the area around the sign will be professionally landscaped to enhance the aesthetic appeal of the area. There are currently two funeral homes operating in south Tulsa, and both are owned by the same company. Mr. Teel feels this gives them a monopolistic position in the market place. His company will offer high quality funeral and cremation services. The crematory will not be on the subject property; the crematory is at the Glenpool location and that is where the cremation process will take place.

Mr. Van De Wiele asked Mr. Teel if the company were to place the proposed sign within the subject property would the sign would be lower than grade? Mr. Teel confirmed that the sign would be lower than grade. He presented pictures of several business signs within a couple of block of the subject property that are within the right-of-way, with one of the signs being less than 20 feet away from Memorial Drive. The Engineering Services Department determined, verbally, that the proposed sign will not impair the public use or violate the Zoning Code or Comprehensive Plan.

Interested Parties:

Stephen Schuller, 100 West 5th Street, Suite 1100, Tulsa, OK; stated he is an attorney representing Memorial Park. If the sign presented previously on the overhead projector will be the sign that is to be erected on the site Memorial Park has no objection to the sign. Memorial Park does not object to the location or placement of the sign or the size

of the sign. Memorial Park does object to the depiction of the sign that was submitted to the Board in their agenda packet. Those materials contain a misappropriation of his client's name, Memorial Park. If the Board is inclined to approve the application he requests that the approval be per plan and the condition be that the words memorial park not appear on the sign. Or in the alternative, the Board approve the photograph of the sign that was displayed on the overhead projector at today's meeting rather than the photo attached to the application.

Rebuttal:

Mr. Teel came forward.

Mr. Henke asked Mr. Teel if the picture of the sign he presented today is the sign that is to be placed on the subject property. Mr. Teel stated that the picture of the sign is the actual sign that will be placed on the subject and the words memorial park have been removed.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Tidwell absent) to **APPROVE** the request for a **Variance** to permit a sign in the public right-of-way per pending approval of license agreement (Section 1221.C.14) from the City of Tulsa, subject to Exhibit A plan the applicant submitted today, August 27, 2013, for the location of the sign. The approval will also be subject to the Exhibit B submitted today for the actual sign and the actual wording of the sign to be located on the subject property. The Board has found that the actual property sits below the roadway and right-of-way making the sign difficult to see if located within the property line of the subject property. By reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

BEG 45E & 250S NWC NW SW TH E332.21 SW.89 SW479.64 W44.88 N5 W10 N125 W5 N266.57 POB LESS BEG NWC THEREOF TH E15 S391.57 W10 N125 W5 N266.57 POB FOR ST SEC 36 19 13 1.648ACS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21617—Eller and Detrich

Action Requested:

Appeal the Determination of an Administrative Official that a private pistol firing range is not an accessory use (Section 1605/1606) OR in the alternative a Special Exemption to permit a private (completely enclosed) pistol firing range (Use Unit 19) in an IL District (Section 901, Table 1). **LOCATION:** 9921 East 44th Place South (CD 7)

Presentation:

Lou Reynolds, 2727 East 21st Street, Tulsa, OK; stated he represents ACC Properties who has an oil and gas company in the facility. Their desire is to add an indoor pistol firing range for use by their employees, employee's families and a few customers. They submitted an application to construct the range and the zoning clearance permit was denied as a principle use, Use Unit 19. Mr. Reynolds does not believe this is a principle Use Unit 19, but he did file for a special exception in the event that this Board finds that it is not an accessory use. Any use that a person makes of their property can be an accessory use, i.e., he could take the shocks off his pickup at his house and that would be an accessory use. If he charged Mr. White to take the shocks off his car that would fall under commercial use and that would not be a lawful accessory use. What was filed is not a principle use nor is it commercial. It is private. There will be no fees charged and it is not open to the public. Use Unit 19 is commercial and recreational activity and in that classification the applicant has a rifle range enclosed. If there were pool tables in an office that does not make it a billiard hall. Mr. Reynolds believes what the applicant proposes is an accessory use. If they were to charge, have members, or people that were not related to the business then it would become a principle use. In the event the Board does not agree with this analysis he would ask that the Board grant a special exception per the proposed plan.

Mr. White stated that why this would not be described as a principle use is because what is being described, compared to the other descriptions given today, is an illegal function of the discharge of a firearm within the city limits. That is probably why this is not considered a principle use. Mr. Reynolds stated that is not in the Zoning Code in that way. There could be a bar in this room and people could have a cocktail at five every evening before leaving to go home, and those have similar illegal characteristics and uses and different regulations. Tanning beds, gymnasiums, and health spas are regulated. Under the Zoning Code there is no difference.

Mr. White asked Mr. Reynolds that if the Board were inclined to approve this request how would the law be handled in regards to the discharging of the firearm within the city limits. Mr. Reynolds stated it is permitted within the Zoning Code. In fact, there can be gun clubs, skeet ranges and rifle ranges. Mr. Reynolds he believes that it is permitted because the pistol or rifle is discharged totally inside the building.

Mr. Van De Wiele asked Mr. Reynolds if the entire range area was bullet proofed and sound proofed. Mr. Reynolds stated that it is. The range has eight inch concrete walls,

six inch concrete ceilings, four inch concrete floor and it is sound proof. The lighting is shielded and protected. The noise outside the building will be much less than the background noise outside.

Mr. Van De Wiele asked if there was going to be anything outside to let the public know there is a gun range in the building. Mr. Reynolds stated no. The applicant does not want advertising.

Mr. Van De Wiele asked if there would be any weapons or ammunition stored on site. Mr. Reynolds stated that what will be stored there will be personal guns and ammunition.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Tidwell absent) to **DENY** the **Appeal** of the Determination of an Administrative Official that a private pistol firing range is not an accessory use (Section 1605/1606) and to **APPROVE** the request for a **Special Exception** to permit a private (completely enclosed) pistol firing range (Use Unit 19) in an IL District (Section 901, Table 1), subject to conceptual plan 6.24. This approval of the special exception is limited to the actual firing range structure that is depicted on 6.24. There is to be no outdoor signage advertising the existence of the firing range itself. Finding the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LT 5 BLK 1, DIVERSIFIED INDUSTRIAL PARK, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21111-A—Wallace Engineering

Action Requested:

Minor Special Exception to modify a previously approved site plan (BOA-21111) to renovate track, playing field and to add discus & shot put areas, and add new track locker room (3,750 square feet). **LOCATION:** 6636 South Mingo Road East **(CD 7)**

Presentation:

Jim Beach, Wallace Engineering, 200 East Brady, Tulsa, OK; stated the action requested is to improve a previously approved site plan for Union High School. In the western portion of the property there is an existing practice football field and track which

is to be renovated. With that there will be a new track building that will contain locker rooms. The addition to the south end of the practice field will be discus and shot put facilities that will go in conjunction with the track. The nature of the additions is such that it qualifies under the Zoning Code as a minor special exception because the floor area that is to be added is considerably less than threshold that is set out for approval of a regular special exception.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Tidwell absent) to **APPROVE** the request for a **Minor Special Exception** to modify a previously approved site plan (BOA-21111) to renovate track, playing field and to add discus & shot put areas, and add new track locker room (3,750 square feet), subject to conceptual plan 7.20. Finding the Minor 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 1 BLK 1, UNION HIGH SCHOOL ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

* * * * *

OTHER BUSINESS

Review and Discussion

Building Demolition and Surface Parking Lots within the IDL Draft Ordinance.

Background:

In early 2012, the Tulsa City Council voiced concern over the loss of building stock downtown and the increased number of surface parking lots which do not contribute to the desired character of our downtown. As a result, the Council instituted a moratorium (on July 18, 2012) which currently affects development within the IDL.

Discussion:

Susan Miller, INCOG, 2 West 2nd Street, Tulsa, OK; stated this is to present and discuss with the Board the ordinance that has been drafted regarding building demolition and surface parking lots in the IDL. There is a length ordinance that was presented to the

Board in their agenda packet. Ms. Dawn Warrick with the City of Tulsa is also present today to help give the highlights of the ordinance and answer any questions the Board may have. This will be taken to the Planning Commission on September 18th so there is time for further review and allow for the Board to call with any questions they may have.

As the Board is aware there is a current moratorium in downtown for the creation of new surface parking lots and the demolition of buildings. This ordinance was drafted in response to that moratorium as a permanent solution. The City Legal Department took the lead in drafting the ordinance, and there was a group of departments that worked together and presented their perspectives, and formatted what was thought to be the most appropriate process to deal with the issues of parking lots and demolition.

Everyone thought it was important to bring this to the Board of Adjustment because the process involves the Board and they will be items brought before the Board. For instance, for building demolition in the IDL the process would be for an application to be submitted to the Permitting Office for that demolition. They will need a set of plans showing they are replacing the razed building or show proof to the building official that the building to be razed is a threat to public safety. That person will then need to submit an application to the Board of Adjustment to approve the demolition. A criterion has been established in the ordinance for the Board to consider.

Mr. Van De Wiele asked if the demolition of a building criterion is encompassed in paragraph A1. Ms. Miller stated that is correct. The intent of number one is that a building permit has been issued for the new building or for the razing process.

Dawn Warrick, Planning and Economic Development, City of Tulsa, 175 East 2nd Street, Tulsa, OK; stated the contemplation would be that the applicant or the owner has already secured approvals for installing a new replacement or development for the subject site prior to the demolition permit. The plan would need to be compliant with the code. If the plan is a surface parking lot the procedure for a special exception would be a part of the process.

Mr. Van De Wiele asked Ms. Warrick how a person gets away from the proposed use as depicted in number one. Ms. Warrick stated if the proposed use is another parking lot, if it is structured, that may be a little further in the ordinance because they split the uses into structured parking and surface parking. If it is structured parking that would be a permitted use by right according to the revision that could be permitted as a replacement or redevelopment option without going for any other discretionary reviews. If the proposal is for a surface parking lot to replace a building that is proposed to be demolished the Board of Adjustment would still be sought to make a determination of a special exception.

Mr. Van De Wiele asked why a structured parking garage is better than a surface parking lot. Ms. Warrick stated that it has to do with the built form of downtown and the desired development pattern within downtown. It is more desirable to have a structure, whether it contains parking or some other use, than to have a surface parking lot or a

vacant lot. It has to do with the continuity, the walkability, or pedestrian environment of the downtown that is anticipated and is envisioned.

Mr. Van De Wiele asked Ms. Warrick if structured parking is a parking garage or is it an apartment with a garage. Ms. Warrick stated that it can be any of those things. It can be a multi-use structure that has parking included.

Mr. White stated that the Board is a quasi-judicial board and today's discussion pertains to quasi-legislative action on part of the Council. He wanted to know why the Board was hearing about this today, because what they will be doing is taking the code as the Council approves it and hearing each case separately based on the code.

Mr. Henke stated that whatever is decided, approved and incorporated into the code the Board will certainly deal with it at that point.

Ms. Warrick appreciates the Board's perspective on this. Everyone that worked on this felt it was important to present this to the Board. It still needs to go through the steps to become a part of the City's code ordinances. The Planning Commission is the first level of that process. This will go through a public hearing on the 18th. Then it will proceed to the City Council for formal adoption, in whatever form it may be modified. We wanted input from the Board of Adjustment. The comments that have been made today have been very helpful.

Ms. Miller stated that she thinks this a quasi-judicial function that they created for the Board of Adjustment to deal with, approving the demolition of a structure.

Mr. Henke stated that he does not think the Board is disagreeing, but today's discussion is a legislative element of crafting and discussing. The Board is flattered to be included in this process.

Ms. Warrick stated they are in the process of seeking input from many different stakeholder groups, industry groups, and the Board of Adjustment was on the list to be contacted. Ms. Miller stated there is a notice that is to be mailed out today to every property owner in the IDL, almost 700 property owners.

Mr. White stated that to his knowledge the Board has never been approached with a proposed ordinance.

Ms. Miller stated there are many boards that will be approached for input and everyone thinks it is very important to receive the Board of Adjustment member's input on this proposed ordinance.

Mr. Van De Wiele stated that his thought, when reading the proposed ordinance, is that he does think he will feel qualified to render a decision as to what contributes to the quality of life for a neighborhood, or whether it is an economical viable use.

Ms. Miller stated this will be a little different than other cases brought before the Board because there will be a core group that staff will coordinate with, such as, the Preservation Commission and other applicable people prior to the case being heard. There will be a lot of expert information provided to the Board.

UNFINISHED BUSINESS

21605—San Juan Gaytan

Action Requested:

Special Exemption to allow New and Used Auto Sales and Tire Sales (Use Unit 17) in the CS District (Section 701, Table 1); Variance of the requirement that no merchandise may be displayed outside within 300 feet of an R District (Section 1217.C.2); Variance of the building setback from the centerline of North Lewis Avenue East from 85 feet to 43 feet for a used car and tire sales use in an existing building (Section 703, Table 2). **LOCATION:** 1417 North Lewis Avenue East (**CD 3**)

Presentation:

San Juan Gaytan, 1417 North Lewis Avenue, Tulsa, OK; stated that he would like to have a tire business.

Mr. Henke stated that previously he had a neighbor that was concerned about standing water, mosquitos, and other things. Mr. Henke asked Mr. Gaytan if he had taken any steps to fix the problem.

Mr. Gaytan stated there is no way stop mosquitos because they are everywhere, even in his office. There are several tires shops near his and one of them has approximately 1,000 tires outside. Mr. Henke stated the outside storage is something that needs to be addressed.

Interested Parties:

Debbie Pleu, 1409 North Lewis Place, Tulsa, OK; stated she does not resent anyone starting a business, all she is asking that the business be legitimately run with consideration and respect to the neighbors. She presented pictures she had taken of the subject property and they were presented on the overhead projector. One of the constant problems, and a concern of hers, is that there are cars continually parked on the sidewalk. There are many stacks of loose tires in the rear of the building and the only thing separating them from a residence is a fence. There are vehicles parked on a vacant lot that she does not believe is part of the subject property.

Ms. Back stated the area Ms. Pleu is referring to is part of the subject property.

Mr. Van De Wiele asked about a picture that showed cars parked and tires stacked on the grass. Ms. Pleu stated they are in the far rear of the property. There are a number of tires and debris, i.e., open containers, that is a magnet for rodents. There are vehicles on the lot that is obvious they will never be moved that can be a haven for rodents, snakes, etc. Ms. Pleu stated that she took the pictures from the extreme outside border of the subject property.

Jack Hill, 4104 East Woodrow Place, Tulsa, OK; stated that he is the owner of the subject property. Mr. Gaytan has conveyed to him that he plans to build some sort of canopy over the tires. Currently the reason the property looks in such disrepair is that there is a large tree on the property that is being cut down so he had to move things out of the way of the crew and their trucks. Mr. Gaytan does have plans to organize the lot and cover the tires.

Mr. Van De Wiele asked if the tree was coming down and totally taken out. Mr. Hill stated that he did not know if there are plans to take the whole tree down but there are long huge branches being trimmed.

Mr. Henke asked Mr. Hill how long Mr. Gaytan had been his renter. Mr. Hill stated that Mr. Gaytan has been there about three years. Mr. Hill stated he operated a business at the subject property for about 30 years selling tires, and he never had a problem with tires.

Mr. Van De Wiele asked Mr. Hill if he had as great a quantity of tires as Mr. Gaytan has. Mr. Hill stated that he did not. Mr. Hill stated that Mr. Gaytan has done everything that he has said he was going to do to the property and he is still attempting to get the lot organized in the early stages of his business.

Ed Martinez, Chairman of the Board, Hispanic Chamber of Commerce, 3125 South Yale Avenue, Suite A, Tulsa, OK; stated that he had met Ms. Back at a Leadership Tulsa meeting and she had made him aware of Mr. Gaytan's situation. Ms. Back was hoping he could meet with Mr. Gaytan and reach a solution to his problem. Mr. Martinez stated the Hispanic Chamber of Commerce does have a committee that gets involved with permitting and variances, due to the language barrier. Mr. Martinez stated that he had not been able to meet with Mr. Gaytan until yesterday, so he had not been able to offer anything at this time. Mr. Martinez stated that his office is going to get involved and give him help. Mr. Martinez stated that one can drive up North Lewis and see any number of tire shops that have similar situations as Mr. Gaytan currently has, but he is willing to become involved to help Mr. Gaytan improve his business.

Ms. Plue came forward and stated that she appreciates knowing that Mr. Gaytan is working with the Hispanic Chamber of Commerce. She is a proud home owner and she wants her neighborhood to stay nice. She agrees that neighborhood has a bad reputation and a community that attracts this type of business. This is the first time she

had an opportunity to voice her concern over her neighborhood. She has been intimidated by people on the subject property and she does not want that type of business or character in her neighborhood.

Mr. Gaytan came forward and stated, as Mr. Matinez interpreted, that he is concerned about his property and his family. He is a business man, wants to bring commerce to the area and have success in doing so. He wants to make a better life for his family.

Comments and Questions:

Mr. Henke stated that he understands tree damage from the wind storm that came through Tulsa, but Mr. Gaytan has been a renter of the property for three years and there are multiple issues. He can vote for approval with very stringent conditions.

Mr. Van De Wiele applauds the applicant's desire to grow his business. That is something that more of is needed in Tulsa. His concern is that the property looks like it has become overgrown by inventory, both of used cars and used tires. He does not want to set a limit on the number of tires that could be for sale on the subject property, but his main concern is the orderliness of the property, and that it would be strictly the selling of cars and tires. He too would want strict conditions placed on an approval.

Ms. Snyder stated that the last tire shop that came before the Board the condition was placed that all the tires had to be enclosed and not visible. She would want the same language used in that case to be used in this case, that any tires have to be in an enclosure so that water would not sit in them. She believes that mosquitos do breed in the water that is standing in the tires. She also would want a limit on the total number of cars that are for sale on the subject property to allow enough parking for potential customers. She wants to encourage his business but with limitations and orderliness.

Mr. White stated that used tire stores around Tulsa have been the greatest eyesore to be dealt with. He would like to see the tires placed to where they cannot be seen from the street or seen by the neighbors. He would like to see a condition that a cover be placed over the used tires to nix the accumulation of rainwater, because as the tires are now it is a breeding place for mosquitoes and all sorts of problems. Mr. White stated that Mr. Gaytan has been on the property for three years and he would want a time limit placed as a condition to give the applicant time to clean up the property.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Tidwell absent) I move that based upon the facts in this matter as they presently exist, we **APPROVE** the request for a Special Exception to allow New and Used Auto Sales and Tire Sales (Use Unit 17) in the CS District (Section 701, Table 1); Variance of the requirement that no merchandise may be displayed outside within 300 feet of an R District (Section 1217.C.2); Variance of the building setback from the centerline of North Lewis Avenue East from 85 feet to 43 feet for a used car and tire sales use in an existing building (Section 703, Table 2). The approval is subject to the following conditions: the applicant is to reappear before the

Board of Adjutment within three months from today's date of August 27, 2013 and present satisfactory evidence that the conditions imposed today have been met and are continued to be met; that no merchandise be stored or offered for sale on any surface other than asphalt or concrete; nothing shall be parked or stored on grass or dirt; the used tires shall be stored and offered for sale on racks or stacked no higher than eight feet and only behind the building, and is to be no wider than the north-south width of the building; the applicant shall construct a cover over the area under which the tires are stored and displayed for sale; the applicant shall maintain the fence on the east side of the property to provide screening from the used tire storage area; no more than 24 vehicles may be offered for sale on the property at any given time; the vehicles offered for sale must be operable; only light automotive and tire work shall be performed indoors; the new tires and wheels, or rims, may be stored and displayed for sale only in front of the building in an area no wider than the north-south width of the building; the hours of operation are to be no earlier than 8:00 A.M. and no later than 7:00 P.M., seven days a week or otherwise limited by the applicable law; no parking by either employee or customer or any display or storage shall be on the sidewalk or the City of Tulsa right-of-way. Finding the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variances to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

LT 14 BLK 2, LTS 15 16 & 17 BLK 2, BELLEVUE HGTS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 2:30 p.m.

Date approved: _____

9/10/13


Chair