BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1237
Tuesday, September 24, 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		Wilkerson	Swiney, Legal
Bond, Vice Chair		Chapman	
Ross, Secretary		Sparger	
Radney		K. Davis	
Shelton			

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on September 19, 2019, at 8:34 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.

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

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MINUTES

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 **APPROVE** the **Minutes** of the September 12, 2019 Board of Adjustment meeting (No. 1236).

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NEW APPLICATIONS

22714—Diana Capehart

Action Requested:
Appeal of a decision by the Tulsa Preservation Commission to deny Historic Permit Application #HP-0116-2019 to permit the replacement of a tile roof with shingles (Section 70.070-L). **LOCATION:** 1110 East 18th Street South **(CD 9)**

Presentation:
The applicant has requested a continuance to October 22, 2019.

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"; "nay"; no "abstentions"; none absent) to **CONTINUE** the request for an Appeal of a decision by the Tulsa Preservation Commission to deny Historic Permit Application #HP-0116-2019 to permit the replacement of a tile roof with shingles (Section 70.070-L) to the October 22, 2019 Board of Adjustment meeting; for the following property:

W28 LT 3 & ALL LTS 4 5 6 7 & 8 & N10 VAC ALLEY ADJ TO SL THEREOF & N30.2 E34 LT 13 & N30.2 LT 14 & N30.2 W28 LT 15 & S10 VAC ALLEY ADJ TO NL THEREOF BLK 4,MAPLE RIDGE ADDN, City of Tulsa, Osage County, State of Oklahoma

22740—Anthony Rodriguez

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:** 432 South Sheridan Road East **(CD 5)**

Presentation:
Staff requests a continuation because the case was published as a Variance and the request needs to be published as a Verification.

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"; "nay"; no "abstentions"; none absent) to **CONTINUE** the request for an Verification of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D) to the October 8, 2019 Board of Adjustment meeting; for the following property:

LTS 1 & 2 BLK 5, SHERIDAN HGTS ADDN, City of Tulsa, Osage County, State of Oklahoma

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UNFINISHED BUSINESS

Mr. Van De Wiele announced that agenda item #2 (unfinished business) and agenda item #12 (new application) are related items so the Board will hear the requests together.

Mr. Van De Wiele recused and left the meeting at 1:07 P.M.

22712—Eufloria Gypsy, LLC **(Unfinished Business)**

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:** 303 North Martin Luther King, Jr. Drive **(CD 4)**

22741—Eufloria Gypsy, LLC **(New Application)**

Action Requested:
Variance of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D). **LOCATION:** 303 North Martin Luther King, Jr. Drive **(CD 4)**

Presentation:
Timothy Bormann, 7815 South Memorial Drive, Apt. 5202, Tulsa, OK; stated at the last Board of Adjustment hearing he found out that a dispensary had been given a Certificate of Occupancy that is within 1,000 feet of his location; about 600 feet away. Exhibit 12.12 in the agenda packet is a Certificate of Occupancy that was issued August 5th and applied for in March which is for Black Rain Processing dba Glazed. Exhibit

12.13 in the agenda packet describes the use in detail which is a medical marijuana processing facility using medical marijuana products processed elsewhere. Exhibit 12.22 in the agenda packet shows that no other structure will be included in the permit and that Black Rain is to be a processing facility only and that was expressed in their hearing, and that allowed him to move forward with his endeavor. Using that information, he moved forward getting his lease and his budget in place. Exhibit 12.10 in the agenda packet states cannabis oil would be processed at an offsite location and brought to the kitchen and the cannabis oil would be mixed, baked and mixed into chocolate and the end product of edibles would then be sold to dispensaries around the Tulsa area by Black Rain/Glazed. With this in mind, the original request to change from commercial business district to a low impact industrial zoning it was made clear in that hearing that retail sales to the community was not their intent. This shows that he did not create this injury to his business. Mr. Borgmann stated that the first hardship is the surroundings, shape, topographical condition of the subject property would result in unnecessary hardships. He believes his hardship exists in the fact that the establishment he has is the only available location within the subject property; the rest of the property is either unfinished space which cannot be brought up to commercial code standards or it is the coffee house. Lateral enforcement of the subject zoning code is not necessary to achieve the provisions intended purpose. To his knowledge the intended purpose of the zoning provision was to ensure there was no detriment or negative impact or injury to the community. He understands and appreciate the concerns of the City planners and the development of a standard so as not to introduce any district to an overabundance of marijuana related businesses and the possible fallout of over abuse within the community. The fact that both dispensaries are located within a thriving commercial district with an abundance of visitors and that fact the Veteran owned dispensary is absolutely willing to adhere to rules, regulations, and compliance set forth for lawful business practice leads him to believe that this Variance, when granted, would 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 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. The fact that the other business was issued a Certificate of Occupancy on August 12, 2019, the day prior to his hearing he was subject to, demonstrates clearly that as Black Rain was grandfathered although an identical industry was not held to the same standard for the zoning required. Mr. Borgmann stated that he understands this is completely legal and the date of the Black Rain license demands this, yet as the rules were not equally applied he asks his Variance be granted for relief of the hardship and loss to allow him to generate the revenue for the City and serve the public as best as he can. The alleged practical difficulty or unnecessary hardship was not created or self-imposed which is demonstrated in the exhibits. The dispensary being available to numerous patients who may frequent the Arts District, Guthrie Green, etc., would enhance the empathy and consideration he feels the District wishes to express in its commitment to the public in Tulsa, and he looks forward to joining fellow business owners and endeavors to provide the public with art, entertainment as well as relief. He would ask the Variance be granted with the understanding that this dispensary as established in a commercial area will increase City revenues, provide a service to the

public, 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.

Interested Parties:
There were no interested parties present.

Comments and Questions:
None.

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 **DENY** the request for Verification of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D) (BOA-22712) and to **APPROVE** a Variance of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D) (BOA-22741). The Board has found the hardship to be that the prior dispensary's license was issued just before the cut off date for spacing verifications and they were approved by the Board of Adjustment as a processing plant. In granting the Variance 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:

ALL LT 4 S OF RY BLK 21, TULSA-ORIGINAL TOWN, City of Tulsa, Osage County, State of Oklahoma

Mr. Van De Wiele re-entered the meeting at 1:23 P.M.

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UNFINISHED BUSINESS

22730—Martin Yoho

Action Requested:
Special Exception to permit a manufactured home use in a residential district (Table 5-2.5); Special Exception to extend the one year time limit for a manufactured home indefinitely (Section 40.210); Variance to allow the use of a non dustless, all-weather parking surface to permit a gravel driveway (Section 55.090-F.1). **LOCATION:** West of the NW/c of West Archer Street North and North 38th Avenue West **(CD 1)**

Ms. Shelton recused and left the meeting at 1:23 P.M.

Presentation:
Martin Yoho, 5818 South 32nd West Avenue, Tulsa, OK; stated he met with the neighboring property owners after the last meeting and no agreement or compromise was reached. The neighbors believe that allowing a manufactured home on the subject property would open up the neighborhood to having more manufactured homes. The property as he found and purchased it had previously had a meth lab in the shed and the area was trashed. Since he purchased the property, he has cleaned up the property and is still working on it. His main concern is everyone getting along and he thinks that could happen. He understands the Board's reluctance to allowing an indefinite approval but his loan is for ten years so he would ask for that time limit. Mr. Yoho stated that he spoke to the lender and now he will be able to install an asphalt driveway.

Mr. Van De Wiele asked Mr. Yoho if the manufactured home was brand new. Mr. Yoho answered affirmatively.

Ms. Ross asked Mr. Yoho if the manufactured home would be affixed to the land and skirted. Mr. Yoho answered affirmatively.

Mr. Yoho stated this is his first time being a homeowner and wants to keep the property nice.

Ms. Radney asked Mr. Yoho if the lender had any concerns on the time limits placed on the approval of his request. Mr. Yoho stated the lender thought it would be better if the time limit could be extended beyond five years, but he had no concerns.

Mr. Yoho stated that as soon as the manufactured home is in place and the asphalt driveway is in, he will erect a privacy fence and build a deck.

Mr. Van De Wiele asked Mr. Yoho if he had any more discussion with the City about the utilities. Mr. Yoho stated that he spoke to the head of the water main extensions and he was told the City wanted a 6" main ran to the property and it would cost $17,000.00. Mr. Yoho stated that it feels strange that no one else has to have that but he needs to run a water line for everyone so money can be made off him. Mr. Yoho stated there is water on the land for a well and he plans on digging a well.

Interested Parties:

Robert Mitchell, 3823 West Archer Street, Tulsa, OK; stated the neighbors understand what Mr. Yoho wants, but the neighbors are afraid that once this is started it will continue. This is one of the things the neighbors are against.

Ms. Radney asked Mr. Mitchell how many vacant lots are there from the T in the road back to the end of the street? Mr. Mitchell stated that he has three acres. Ms. Radney asked Mr. Mitchell if he had any plans of installing a manufactured home. Mr. Mitchell stated he has learned something and there is opportunity all the way around.

Mr. Van De Wiele stated there is a mobile home located at 39th and Admiral that was granted a five-year Special Exception in 1989, and he asked Mr. Mitchell if that home was a blight or detriment to the neighborhood. Mr. Mitchell answered no.

Joseph Owen, 21 North 38th West Avenue, Tulsa, OK; stated he has the same concerns as Mr. Mitchell. The neighborhood needs people to come in that will help bring the neighborhood back to what it was; it has turned into a drug lords paradise. Mr. Owen is not saying that Mr. Yoho will be a detriment to the neighborhood, but the neighborhood does not need anything started that will lower the neighborhood standards any farther.

Mr. Van De Wiele asked Mr. Owen if his thought process would be impacted or changed if the request were granted a shorter time period rather than indefinite, and if it were required to be a brand-new manufactured home. Mr. Owen stated that he is afraid that one will start a chain reaction of others coming into the neighborhood.

Rebuttal:

Martin Yoho came forward and stated he understands what is being said. Obviously, he not a drug lord and is not trying to move in to do anything. He and his partner both work and they're not drug addicts. Mr. Yoho stated that his past is not stellar, and he is rebuilding his life. This has been a learning experience for him, and he believes he is the exact opposite of what the people are trying to keep out of the neighborhood.

Comments and Questions:

Mr. Bond appreciates the applicant's honesty and he thinks the concerns the neighbors have are valid. He thinks in this case the neighborhood would have someone that would add to the neighborhood and be a benefit. He will support this request.

Ms. Ross agreed with Mr. Bond. She thinks the fact that it is a new manufactured home and that it will be affixed to the property becoming a part of the real property will be a benefit as well. The skirting will help it look more like a regular house and not like a mobile home.

Ms. Radney concurred with the prior statements. She thinks there are a lot of ways to rebuild neighborhoods, particularly with people who are starting over. She appreciates the fact that this will be a new manufactured home, she is sensitive to what the neighbors are saying and what they want to see is the arc of the neighborhood moving towards improving or stabilizing. Bases on the information the applicant has presented to the Board he allays those particular concerns because Mr. Yoho seems prepared to make investment to be added into the neighborhood. Ms. Radney stated that she will be in favor of this request.

Mr. Van De Wiele appreciates the gentlemen from the neighborhood coming to the meeting today, but he does get the sense from Mr. Yoho that he is the type of neighbor that is going to move a neighborhood in the right direction. He would not vote to approve the Variance for the gravel drive, and he would not vote in favor of a ten-year time limit.

Board Action:
On **MOTION** of **BOND**, the Board voted 4-0-1 (Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; Shelton "abstaining"; none absent) to **APPROVE** the request for a Special Exception to permit a manufactured home use in a residential district (Table 5-2.5); Special Exception to extend the one year time limit for a manufactured home to five years, September 2024 (Section 40.210), subject to conceptual plan 3.12 for the location and conceptual plan 3.14 for a reasonable concept of the landscaping as depicted of the agenda packet; and to **DENY** a Variance to allow the use of a non dustless, all-weather parking surface to permit a gravel driveway (Section 55.090-F.1). The manufactured home is to be new and is to be skirted. The manufactured home is to be affixed to the land. 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:

W175 SW SE SW NE LESS W80 & LESS S165 THEREOF & LESS N25 THEREOF FOR RD SEC 4 19 12 0.31AC, City of Tulsa, Osage County, State of Oklahoma

Ms. Shelton re-entered the meeting at 1:47 P.M.

22733—Ron Reddy

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:** 3202 South Memorial Drive East **(CD 5)**

Presentation:
Ron Reddy, 11910 South Date Avenue, Jenks, OK; stated there is no other dispensary close to the subject location.

Mr. Van De Wiele stated the Board has a copy of the applicant's license on page 4.10 of the agenda packet, and the spacing verification exhibits on page 4.11 and 4.12 in the agenda packet.

Mr. Van De Wiele asked Mr. Reddy if the closest license holder or dispensary the Therapeutic Hemp Center. Mr. Reddy answered affirmatively.

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) 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:

PRT LT 3 BEG 408.75N SECR TH W222 N286.5 E196.75 SE35.38 S261.37 POB,INTERCHANGE CTR, City of Tulsa, Tulsa County, State of Oklahoma

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NEW APPLICATIONS

22728—Claude Neon Federal Signs – Ed Horkey

Action Requested:
Variance to permit a dynamic display in a CS District to be located within 200 feet of an RS-3 District (Section 60.100-F). **LOCATION:** 1228 West Apache Street North **(CD 1)**

Presentation:
Ed Horkey, Claude Neon Federal Signs, 1225 North Lansing, Tulsa, OK; stated he represents Metropolitan Baptist Church. The church would like to add a dynamic display to their existing pole sign. The sign came into question because it is within 200 feet of a residential district. The sign itself is located in a small bump out area that is actually commercial property that extends from the north. Across the street there is commercially zoned property in a PUD. The main portion of the property that the church is located on is zoned RS-3, and to the south there are additional residential areas. The sign site line from the current residential area from the south is almost non-existent because the topography or the church blocks it. All the land to the north is undeveloped. The land to the northeast has an industrial development on it and the Tisdale Expressway borders the property. The church is active in the community and it would like to have the ability to communicate to the community about the services the church offers.

Mr. Van De Wiele stated there was a noticing issue that required Mr. Horkey to come back before the Board so the Board has seen this application before. Mr. Van De Wiele asked Mr. Horkey if the property that is within 200 feet of the residential district is church property. Mr. Horkey answered affirmatively.

Mr. Van De Wiele asked Mr. Horkey if there was any other residential district within 200 feet of the subject sign. Mr. Horkey stated there is not.

Mr. Van De Wiele stated the Board has received an e-mail from a resident in the area in opposition of the request, basically because there are other digital commercial signs in the area and believe the subject sign will be a distraction and not in keeping with the community area. Mr. Van De Wiele asked Mr. Horkey to address those points. Mr. Horkey stated he has not seen the e-mail and the person was not present at the previous meeting and not at this meeting. The digital sign is within the 48 square foot requirement that is common in the City Code; the church thinks the 48 square feet is adequate. Mr. Horkey stated that arguments can be made either way, a sign is disruptive or that is not disruptive. He thinks in this case the sign is away from the residential area it will be injurious to the residential area. Also, because of the church use of the sign he does not think that the sign will have usage similar to what is normally seen in a non-regulated casino type application.

Interested Parties:
There were no interested parties present.

Comments and Questions:
Ms. Radney stated that she does not have a problem with the sign, but she is persuaded about the deer; she has hit a deer before, and it was very unpleasant. If there something that is going to create glare because the topography in the area is changing and there is a pond across the street from the sign so there will be wildlife crossing, she would like to see the hours restricted so it is not so bright in that area.

Mr. Van De Wiele asked Mr. Horkey to address the dimming features of the sign. Mr. Horkey stated that a digital display sign is designed to be at 100% power and the City of Tulsa requires that nothing be brighter than 400 NITS, which is the LED equivalent to candle power. During the daytime hours the sign probably would not exceed 52% of the available power and the LEDs would be brighter during the day because they are overcoming the day light. The sign has a photocell activated feature that at night the sign would go down to 26% of available power. The nighttime brightness is much less than the daytime brightness.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; "nay"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to permit a dynamic display in a CS District to be located within 200 feet of an RS-3 District (Section 60.100-F), subject to conceptual plans 6.9, 6.11 and 6.12 in the agenda packet. The Board has found the hardship to be the church is in the middle of a residential district and the topography being such that the sign is not visible to any homes around. The sign is to be turned off at 10:00 P.M. and can come back on at 5:00 A.M. In granting the Variance 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:

LOT 1 BLOCK 1, METROPOLITAN BAPTIST CHURCH, City of Tulsa, Osage County, State of Oklahoma

22736—Angela Locke

Action Requested:
Variance of the 1,000 spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D). **LOCATION:** 6702 South Lewis Avenue East **(CD 2)**

Presentation:
Angela Locke, 909 South Muskogee Avenue, Tahlequah, OK; stated she has another location at 81st and Harvard, and she checked with the City about the subject location prior to signing a lease and applying for the license. In using Google maps, she found that she was 1,250 feet away from the nearest dispensary, so she signed the lease. When she went to the City to receive her Certificate of Occupancy, she was told she needed a straight-line measurement, and in doing that is displayed that she was about 960 feet away from the nearest dispensary. If she would have known about the proper steps for verifying the distance requirement, she would have never signed a lease. The lack of communication or the ambiguous instructions she was given made a hardship for her.

Mr. Van De Wiele asked Ms. Locke how far away the other dispensary from her subject location. Ms. Locke stated that when she measured it out on Google maps it was 1,250 feet and when she bird-lined it from their inner wall to the inner wall of her location it was about 960 feet.

Mr. Van De Wiele asked Ms. Lock if she was aware of any other license holder or dispensary opening or in progress within the 1,000-foot radius. Ms. Locke stated that she is not aware of any.

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"; "nay"; no "abstentions"; none absent) to **APPROVE** the request for a Variance of the 1,000 spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D), subject to conceptual plan 7.13 and 7.14 of the agenda packet. The Board finds the hardship to be the fact that the lease was executed by the applicant in June, 2019 and the Certificate of Occupancy was not issued to the other dispensary until July 19, 2019, and a Letter of Deficiency was issued at the end of July, 2019. Also, the fact that the spacing verification was not needed for the other dispensary located 960 feet away, and this dispensary will be out of the line of sight of the other dispensary. The address of the other dispensary is 6908 South Lewis Avenue. The Variance is approved from the dispensary located at 6908

South Lewis Avenue in Tulsa, Oklahoma. In granting the Variance 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 1 LESS BEG NEC LT 1 TH S20 NW28.28 E20 POB BLK 2, SOUTHERN CROSS ADDN B2-3, City of Tulsa, Osage County, State of Oklahoma

22737—Jeremy Enno

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: 2442 East 15th Street South **(CD 4)**

Presentation:
Jeremy Enno, 2300 South Kalanchoe Avenue, Broken Arrow, OK; no formal presentation was made, and the applicant was available for any questions.

Mr. Van De Wiele stated the Board is in receipt of a copy of the applicant's medical marijuana license on page 8.15 in the agenda packet.

Mr. Van De Wiele stated that SGOK3 is 335 feet away, and he asked Mr. Enno about Care First Pharmacy. Mr. Enno stated that Care First Pharmacy is a compounding pharmacy and they fill prescriptions. Mr. Enno stated that he spoke to a person at the pharmacy and that person told him that SGOK3 used the Care First Pharmacy location. Mr. Enno stated that SGOK3 does not have medical marijuana, it is not a dispensary, does not process, and there are several different locations for them.

Mr. Van De Wiele asked Mr. Enno if there was a license issued to SGOK3 at the address close to him, and if there was an operating dispensary at the address. Mr. Enno stated there is no operating dispensary and stated there is an address for that location.

Mr. Van De Wiele asked Mr. Chapman if there was anything on file for spacing. Mr. Chapman stated there is not and stated that he noted in his staff report that there is a sign for "Central Purp" coming soon. As a matter of course, INCOG notified that property owner of this application but they have had a fire and that location was dissolved. Mr. Chapman stated that to his knowledge the facility is not operating and if someone were trying to come in, they would be subject to a spacing verification and no permits have been applied for. Mr. Enno stated that if Central Purp is trying to come into the location it would be their second location. Mr. Chapman stated the landlord had contacted him and stated there had been a fire at the location, so the landlord terminated Central Perk's agreement. Mr. Chapman stated that Mr. Enno is the first person to go through the process for a spacing verification and at this point there is not an established dispensary within a 1,000 feet.

Mr. Van De Wiele asked Mr. Chapman if the license for Central Perk was a pre-December 1, 2018 license? Mr. Chapman stated he did not have that information.

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) 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 1 BLK 1, MCDONNELL'S SUB L1-5 GLEN ACRES, City of Tulsa, Tulsa County, State of Oklahoma

22738—Tonnieka Starks

Action Requested:
Variance to allow a detached accessory structure to exceed 500 square feet (Section 45.030-B); Variance to allow an accessory structure to exceed 18 feet in height (Section 90.90.C); Variance to allow more than 30% coverage in the rear

setback (Section 90.090-C.2). **LOCATION:** 1431 North Nogales Avenue West **(CD 1)**

Presentation:
Tonnieka Starks, 7607 East 79th Street, Tulsa, OK; stated that when she decided to build a garage, she called Osage County because that is where she always paid her taxes, and she asked if she needed any permits and was told no so she proceeded. During construction a City official drove up and asked for their permit. Now she is before the Board asking for a Variance for a structure that is almost complete. Ms. Starks said in the 19 years she has lived there, cars were always parked in the yard and there was a blacktop driveway. So, the intent was to have a garage where cars could be parked and to help maintain the house and make it presentable to the neighborhood.

Mr. Bond left the meeting at 2:39 P.M.

Mr. Van De Wiele asked Ms. Starks what the top portion of the structure is used for. Ms. Starks stated that it is used for storage. Mr. Van De Wiele asked Ms. Starks if it was a rental unit. Ms. Starks answered no and stated there is no intent of having anyone live there. Mr. Van De Wiele asked Ms. Starks if it was unfinished. Ms. Starks answered affirmatively.

Mr. Bond returned to the meeting at 2:40 P.M.

Mr. Van De Wiele asked Ms. Starks how tall the building is at the peak of the roof. Ms. Starks stated that it is about 20 feet.

Mr. Van De Wiele asked Ms. Starks to state her hardship to the Board. Ms. Starks stated that the hardship is that she started building the garage thinking it would be acceptable after contacting Osage County and being told she did not need a permit.

Ms. Shelton left the meeting at 2:41 P.M.

Mr. Van De Wiele asked Ms. Starks what is left to complete the building. Ms. Starks stated that the inside needs to be completed; sheet rock and other items.

Mr. Van De Wiele asked Ms. Starks how many vehicles would be parked out front of the building. Ms. Starks stated that this moment there are two. Ms. Starks stated that she has eight children and six of the eight are driving.

Ms. Radney asked Ms. Starks if the concrete had been added to as a result of extending the garage. Ms. Starks answered affirmatively. Ms. Starks stated that now a person can drive from the front of the house going beside the house and back to the garage. Behind the house is the Osage Expressway and apartments to the right and residential areas elsewhere.

Ms. Shelton returned to the meeting at 2:43 P.M.

Interested Parties:
There were no interested parties present.

Comments and Questions:
Mr. Van De Wiele asked Mr. Wilkerson if there was a coverage issue. Mr. Wilkerson stated there is nothing in the Letter of Deficiency about the coverage, but the survey for this application shows what appears to be paving so it looks like there is more paving in the front yard than there should be.

Mr. Van De Wiele asked Mr. Chapman if he was comfortable with the fact that this subject property is both within the City limits of Tulsa and Osage County. Mr. Chapman answered affirmatively.

Board Action:
On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to allow a detached accessory structure to exceed 500 square feet (Section 45.030-B); Variance to allow an accessory structure to exceed 18 feet in height (Section 90.90.C) but not to exceed 20 feet; Variance to allow more than 30% coverage in the rear setback (Section 90.090-C.2), subject to conceptual plan 9.11 of the agenda packet. The Board has found the hardship to be the location and layout to the Tisdale Expressway, as well as, the reliance expressed by the adjoining county. In granting the Variance 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:

Lot 7 and the South 5 ft of Lot 8 , Block 2, Monarch Heights, City of Tulsa, Osage County, State of Oklahoma

22739—Erik Sigala

Action Requested:
Special Exception to increase the maximum driveway width from 30 feet. to 36.8 feet on the lot in an RS-3 District (Section 55.090-F). **LOCATION:** 11549 East 7th Street South **(CD 3)**

Ms. Ross left the meeting at 2:56 P.M.

Presentation:
Erik Sigala, 11549 East 7th Street, Tulsa, OK; stated he has expanded his driveway and now needs a Special Exception.

Mr. Van De Wiele asked Mr. Sigala how this came about. Mr. Sigala stated that he extended the driveway because he needs more parking for cars; there is a total of five cars currently and will be purchasing two more.

Ms. Ross re-entered the meeting at 2:58 P.M.

Mr. Van De Wiele asked Mr. Sigala why needs to have five to seven vehicles. Mr. Sigala stated that three vehicles are work vehicles and the others are for personal use. Mr. Van De Wiele asked Mr. Sigala to explain the term "work vehicles". Mr. Sigala stated there are two Transit Connect vans, two trailers and a truck. Mr. Van De Wiele asked Mr. Sigala if he was operating a business out of the home. Mr. Sigala answered no. Mr. Sigala stated he has a building in North Tulsa, and it has been broken into multiple times, so he needed to park his vehicles safely.

Mr. Bond left the meeting at 3:05 P.M.

Mr. Van De Wiele asked Mr. Wilkerson if that was allowable by the Code. Mr. Wilkerson stated there are provisions in the Code about not parking work vehicles on a site, but he is not sure what the specifics are. Mr. Chapman stated the Code restricts parking commercial vehicles on a residential lot and the Code refers you to the Oklahoma Administrative Code and how it is registered with the State on the vehicle tag. Mr. Chapman stated that he thinks it is connected to the weight of the vehicle, and if it is an unmarked van it is hard to tell that it is a commercial vehicle. In terms of trailers, the Code defines a trailer as a recreational vehicle and the homeowner is limited to one.

Mr. Bond re-entered the meeting at 3:07 P.M.

Mr. Van De Wiele asked Mr. Sigala if there was parking in the rear. Mr. Sigala answered affirmatively and stated he could move the trailer into the back. Mr. Van De Wiele asked if it would be on concrete. Mr. Sigala answered affirmatively.

Ms. Radney asked Mr. Sigala if the drive went through the gate on the west side of the house. Mr. Sigala answered affirmatively. Ms. Radney asked Mr. Sigala if that was why he needed the driveway. Mr. Sigala answered affirmatively and stated that he does not want the neighborhood to look bad.

Mr. Van De Wiele asked Mr. Sigala if he was aware of any other wide than permissible driveways in the neighborhood. Mr. Sigala stated there are a few but he has never measured them.

Ms. Ross asked Mr. Sigala if he had applied for a permit before he built the driveway. Mr. Sigala answered no.

Interested Parties:
There were no interested parties present.

Comments and Questions:
Ms. Ross stated that she is not inclined to grant this request because it is for the storage of work vehicles in a residential neighborhood and five to seven is excessive. And Mr. Sigala did not apply for a permit before building the driveway. This driveway looks odd for this area and it is a lot of concrete.

Ms. Shelton stated her issue is purely aesthetic. She does not mind the drive going towards the side yard it is the ten-foot patch in the front, that is injurious to the neighborhood.

Mr. Bond stated it is too much concrete in the front yard, and it is injurious to the neighborhood.

Board Action:
On **MOTION** of **BOND**, the Board voted 3-2-0 (Bond, Ross, Shelton "aye"; Radney, Van De Wiele "nays"; no "abstentions"; none absent) to **DENY** the request for a Special Exception to increase the maximum driveway width from 30 feet. to 36.8 feet on the lot in an RS-3 District (Section 55.090-F) due to injury to the neighborhood; for the following property:

LT 25 BLK 8, WESTERN VILLAGE, City of Tulsa, Tulsa County, State of Oklahoma

22742—Rob Coday

Action Requested:
Variance to reduce the minimum street setback in an IM District from 10 feet to 0 feet (Section 15.030, Table 15-3). **LOCATION:** 34 North Owasso Avenue East **(CD 1)**

Presentation:
Rob Coday, P. O. Box 128, Keifer, OK; stated this is an old site and there is an existing concrete foundation the original owner had wanted to build a new building on in 1918, but it is now gone. A new survey was performed, and it was decided that the building needs to be a little smaller, but he would still like to front along the East Admiral Place right-of-way. It is a very odd shaped lot because of the Frisco Railroad to the north and East Admiral Place is virtually non-existent. He would like to expand the existing building to the west and there will be a 25-foot vehicle access. The building will be used as a warehouse.

Mr. Van De Wiele asked Mr. Coday if anyone used East Admiral Place to the west end of the subject property. Mr. Coday stated that he does not believe so. Mr. Coday stated there is a building south and west of his property and he believes they have access from Owasso.

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 **APPROVE** the request for a Variance to reduce the minimum street setback in an IM District from 10 feet to 0 feet (Section 15.030, Table 15-3), subject to conceptual plan 13.5 of the agenda packet. The Board find the hardship to be the odd shape of the lot. In granting the Variance 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 1 TO 10 INC & 1/2 VAC OWASSO AVE ADJ ON EAST BLK 2, BERRY ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22745—Charles Higgins

Action Requested:
Special Exception to allow a duplex in an RS-5 District (Section 5.020, Table 5-2); Variance of the 25 foot setback for a Special Exception Use from R-zoned lots occupied by residential uses (Section 50303-B, Table Note 4); Variance of the required number of parking spaces (Section 55.020, Table 55-1). **LOCATION:** 1012 North Main Street **(CD 1)**

Presentation:
The applicant was not present.

Mr. Van De Wiele stated that this case will be moved to the end of the agenda in case the applicant does come in.

Interested Parties:
There were no interested parties present.

Comments and Questions:
None.

Board Action:
No Board action required at this time.

22746—Shane Hood

Action Requested:
Special Exception to allow a Small (less than 250-person capacity) Indoor Commercial Assembly/Entertainment Use to sell and serve alcohol within 150 feet of a residential district; Special Exception to allow an Outdoor Commercial Assembly/Entertainment Use in a CH District (Section 15.020, Table 15-2).
LOCATION: 3924 West Charles Page Boulevard South **(CD 1)**

Presentation:
Shane Hood, W Design, 815 East 3rd Street, Tulsa, OK; stated that he originally applied for this request covering a series of lots, Lots 4 through 9, and it had only been noticed for Lot 6. He was given two options, ask for a continuance or present the case for Lot 6 and potentially work with the City of Tulsa to receive the Certificate of Occupancy for the entire property. The subject tract is Lot 6, Lots 4 and 5 are to the east and Lots 7, 8 and 9 are to the west and Lot 9 would only be using three feet of the lot for this request. A lot combination for all the lots is in process. The property is the Art Deco firestation from 1931 and was taken out of service in the 1950s. The owner purchased the property to save the fire station and would like to make it an event center. The building has been completely renovated and the owner is in the process of getting the building listed on the national register for historic places. There has been landscaping done and received an alternative landscaping plan. The idea is so people can have events inside or outside. The fire staton currently can seat about 100 people inside, but essentially what this is is a museum because it has been restored back to what it was. The buildings to the west of the fire station have been removed.

Mr. Van De Wiele asked Mr. Hood if the two options presented to him was to have this use approved on one of the six lots and then come back to the Board for the other five lots at a later date. Mr. Hood answered affirmatively.

Interested Parties:
Janet Thompson, 501 Angus Drive, Sand Springs, OK; stated she has four lots behind the subject property located on 8th Street. She protests the W Design plan to revert this property into an entertainment property. The words entertainment and event are a broad spectrum and there are no specifications stating what it will actuallly be. She is opposed to the sale and the serving of alcoholic beverages within 150 feet of a residential district, and there is an elementary school nearby. This is a low income area which does not need an establishment that will be attracting more undesireables to the area; the area already has drug dealers and users. Not only are there drug dealers and users, but there are alcoholics and homeless that live on the Arkansas River and in the area as well. The environment is such that people coming through the area ask if it is safe to be there, and the neighborhood is concerned about safety and the school aged children. This is obviously not a family oriented establishment or they would not have a need to provide intoxicating beverages. She fears this establishment will not only

produce unwanted and undesireables but also a dangerous environment which would result in fighting and possibly injuring innocent people. The area needs businesses but not these types of businesses. If this is approved will the hours be limited that will not interfere with the sleep of the children, and will there be a wall separating the business from the neighborhood that is directly behind and to the sides of the proposed site. What will be done to prevent clientele leaving the premises intoxicated? Will the City of Tulsa be accountable if any injuries or deaths come to pass due to this establishment being permitted? If the establishment is permitted will the subject property be renegated for another establishment? Ms. Thompson stated her property has been in her family since the 1930s, and her daughter is worried about this establishment moving into this area. Ms. Thompson asks the Board to take into consideration the residents who do not want this request to be approved. Ms. Thompson is worried that once the establishment is allowed into the neighborhood it will change from an event center to a bar or a club, and that will bring in more undesireables.

Mr. Van De Wiele asked Mr. Wilkerson if the property was zoned CH. Mr. Wilkerson answered affirmatively. Mr. Van De Wiele asked if somebody wanted to erect a restaurant on the subject property with liquor service would that likewise have the same limitation? Mr. Wilkerson stated if it were just a restaurant there is no special separation from the residential. Mr. Van De Wiele asked if a restaurant with a bar could on the property by right. Mr. Wilkerson answered affirmatively. Mr. Wilkerson stated that if it were a bar which is a permitted use a Special Exception is required for the bar because of the distance factor.

Mr. Van De Wiele stated that is an idea of what could be on the property. Someone could open a restaurant on the property today without any approval from this Board or another zoning board because of the current underlying zoning. If somebody wanted to turn this into a stand alone bar that person would have to come before the Board. The special event center/entertainment use is a different use than a typical bar. The typical commercial assembly/entertainment uises are rented out for birthdays, weddings, clasee reunions, etc., not just a bar that is open all evening every evening.

Harold Thompson, 501 Angus Drive, Sand Springs, OK; stated that another concern is that the subject property is within 200 feet from a school playground.

Mr. Van De Wiele stated that would be another spacing issue; that would be an additional request.

Ms. Thompson stated there are school children that are going to subject the loud music, even if it is an event, and the people carousing around in the open event area and drunks urinating behind the building.

Ms. Ross stated that whoever rents this facility will be paying decent money and she does not think it will be homeless people urinating behind the building.

Ms. Thompson stated that she would welcome an establishment there that is going to be an upstanding and an upgraded environment to what exists in the area. Everything that comes into the area stays for a short period of time and then it becomes an undesireable environment.

Rebuttal:

Shane Hood came forward and stated when the owner purchased the building it was because it was a historic building that had a place in Tulsa's history. He had no idea what he would do with the building but he wanted to prevent the building from destruction. The owner has created a relationship with the Tulsa Fire Department and they have had several events there to support their charities. The building has been completely restored and landscaped, more landscaping than what is required for the property, and fencing of the entire back yard is done with a six foot fence screening the houses that are in the back. The building is screened on the sides and the front has a low fence. There is a band new sign out front. The owner owns the corner property as well which will be his office, and he has met with the former owner of the property which has interesting pieces of history for the building. The owner has invested in the piece of property and is not interested in operating a bar or restaurant.

Mr. Van De Wiele asked Mr. Hood where his patrons would park for the events. Mr. Hood stated the parking in the front is what is required by the Code for the property, and the parking would extend to the east.

Mr. Van De Wiele asked Ms. Blank if she had a recommendation as to the action to be taken by the Board today. Ms. Blank stated the plans that the Board has show more than just Lot 6, so she is not sure the Board has a way of identifying what is on Lot 6. Making it clear for the building permit personnel and the enforcement personnel is difficult with what is presented today.

Comments and Questions:

Mr. Van De Wiele stated that there is a need for parking, there is a need to fence and screen the property, and if the Board granted approval just for Lot 6 the applicant could not do what he wants. If Lot 6 was all there is, the Fire Station, he does not know it would be approved.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Special Exception to allow a Small (less than 250-person capacity) Indoor Commercial Assembly/Entertainment Use to sell and serve alcohol within 150 feet of a residential district; Special Exception to allow an Outdoor Commercial Assembly/Entertainment Use in a CH District (Section 15.020, Table 15-2) to the October 8, 2019 Board of Adjustment meeting; for the following property:

LOT 4 BLK 1; LOT 5 BLK 1; LOT 6 BLK 1; LOT 7 BLK 1; LT 8 BLK 1; E. 1/2 OF LOT 9 BLK 1, HOME GARDENS SECOND ADDN - TULSA, City of Tulsa, Tulsa County, State of Oklahoma

22747—Amanda Lowe

Action Requested:
Special Exception to allow Low-impact Manufacturing and Industry uses in the CBD District (Section 15.020, Table 15-2). **LOCATION:** 320 North Boston Avenue East **(CD 4)**

Mr. Van De Wiele recused and left the meeting at 3:50 P.M.

Presentation:
Amanda Lowe, 320 South Boston Avenue, Suite 200, Tulsa, OK; stated she represents Mayfield, LLC who is requested a Special Exception. A Special Exception was originally granted on the property in the early 1970s, but the entire property was not covered under the Special Exception. The Special Exception is for the low impact sheet metal use, so the client would for the Special Exception to cover the entire property and to broaden the scope of the Special Exception to allow for all low impact uses besides medical marijuana uses. The property is currently under contract for sale and it is contingent on the zoning issues are straightened out. The buy wants the Special Exception to cover the entire property and broaden the Special Exception to cover for the low impact uses currently and in the future on the property.

Ms. Ross asked Ms. Lowe what the buyer intended to put on the property. Ms. Lowe stated the buyer has provided a description of what they are intending, but she is asking for a broader scope in case the sale does not go through for whatever reason that the property can be marketed to other low impact manufacturing uses.

Mr. Bond asked Ms. Lowe to provide examples of what a permitted use would be. Ms. Lowe stated that the current uses are provided in attachment #2 to the application. It is her understanding that it is metal building insulation, HVAC system supplies, gaskets, belts, expansion joists, and the buyer would be interested in manufacturing pressure valves.

Interested Parties:
Lori Schram, 405 North Main Street, Tulsa, OK; stated she is one of the developers of the adjacent property, Davenport Lofts to the north. She has owned the property for about five years and has been a resident in the neighborhood for about seven years. She is supportive of this change for a number of reasons. The original owner of the building and the business was L. A. King and the little bump out on the property was their original location on Boston. They acquired additional property over the years and

had two existing structures that were warehouses. The north strip is the south 30 feet of Davenport Street which was platted but never became a street because it was the Katy Railroad. She owns the north 30 feet of Davenport Street and that is probably why there is some confusion on CBD vs light industrial. Ms. Schram thinks this would be a great acquisition to use the building for its purpose, which is light manufacturing, and it does not really impact the neighborhood.

Jesse Fettkether, 11 ½ East Reconciliation Way, Tulsa, OK; stated he is before the Board today on behalf od Sharp Development to oppose the Special Exception. His client opposes the Special Exception because it is not harmonious with the intent and spirit of the Zoning Code and the growth plans for the Arts District. The intent and the actual growth in the Arts District is the residential condos as discussed here. Also, there is arts and entertainment, Oklahoma Pop Museum and other things that are coming in. There is a new bank headquarters that is being completed. WPX just announced a new corporate headquarters will be going in. The growth in the area is toward other uses and away from the legacy and light industrial use facilities that Tulsa use to see back in the day. Another problem with it is that the industrial use is unspecified; it introduces a large unknown. When the use is intended to be expanded as far as the tract is concerned, and the use is not constricted to the current it introduces an unknown which is bad for development in the area, bad for the existing neighbors, and the uses in the area. Mr. Fettkether feels like it would be against the spirit of the Zoning Code, against the plan to develop this area, and limit the potential growth in the area since investors don't know what this area will be used for.

Rebuttal:

Amanda Lowe came forward and stated that she would argue that it would not be injurious to the neighborhood, its been used as a low impact manufacturing facility for many, many years and to continue that use and expand it into different avenues of low impact would not be injurious. Obviously, there are people in the neighborhood supportive of the request. She does not think this rises to the level of not being in harmony with the spirit of the Code or injurious to the neighborhood.

Comments and Questions:

Ms. Ross stated that this case reminds her of a previous case where a company wanted to expand for the same use they had been using their building for and she supported that request because the company had been in the area since the 1930s but the Board denied the request and she thought it was a mistake. That company only wanted to add a small section for something the building had always been used for and to her this is the same thing; they just want to cover the entire property that is owned and expand the use to something similar.

Ms. Radney stated that Special Exceptions always cause her a little concern because they are in perpetuity, and this is open ended. She will acknowledge not having more information, she needed to ask more than once what about the proposed use, and not having that to weigh in her decision it opens a question. From the standpoint of the mitigating uncertainty for a potential buyer she believes the direction of the CBD is

going is toward less manufacturing and more toward arts entertainment and other industries.

Ms. Ross stated that in the agenda packet the staff pictures show large semi-trailers on the subject property perpendicular to Boston Avenue; trailer completely blocked the south bound lanes and sidewalk.

Ms. Lowe came forward and stated that the potential buyer does not provide sales in big trucks, it is more Fed-Ex, small package valves so large trucks in the area would be a non-issue if the sale were to go through.

Mr. Bond asked Ms. Lowe if the potential buyer will be using the existing loading docks or will they load their product from another area. Ms. Lowe stated that it is her understanding that once the sale goes through the new buyer will be sending Fed-Ex shipments out of the side of the building and the product will be in small boxes.

Ms. Radney asked Ms. Lowe what the other businesses north of the subject property on Main Street and where the condos are located. Ms. Lowe stated the other businesses are offices on Boston as well as on Main Street, and the condos are located north on Main Street.

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 **APPROVE** the request for a Special Exception to allow Low-impact Manufacturing and Industry uses in the CBD District (Section 15.020, Table 15-2). The use is to be limited to those uses shown on the handout from the applicant and uses shown on page 16.22 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:

PRT LTS 1 & 2 & 7 & 8 BEG 2S NEC LT 1 TH SE128.15 SW300 NW128.07 NE300 POB BLK 19, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Van De Wiele re-entered the meeting at 4:12 P.M.

22748—Wallace Engineering

Action Requested:
Special Exception to permit a Homeless Center in the CBD District (Section 15.020, Table 15-2); Special Exception to reduce the dispersal standards for Detention and Correctional Facilities, Emergency and Protective Shelters, Homeless Centers, Residential Treatment Centers and Transitional Living Center

Uses from each other (Section 40.130). **LOCATION:** 415 West Archer Street North **(CD 4)**

Presentation:
Mike Thedford, 123 North MLK, Jr., Tulsa, OK; stated he represents the Tulsa Day Center. This is an update to a previously approved Special Exception to conform to the new Zoning Code. The dispersal requirements have been increased. The project that he is working with the parking lot expansion and the building expansion in its existing location.

Mr. Van De Wiele asked Mr. Thedford to explain the dispersal standards. Mr. Thedford stated that his understanding of the Code is 2,640-foot radius requirement of being apart from certain facilities; there are four existing facilities in the area.

Mr. Van De Wiele stated this type of issue also came up when the Iron Gate discussion was before the Board. There certainly was discussion of having these sort of related facilities, but he thinks this is a good use of this property.

Interested Parties:
There were no interested parties present.

Comments and Questions:
None.

Board Action:
On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to permit a Homeless Center in the CBD District (Section 15.020, Table 15-2); Special Exception to reduce the dispersal standards of 2,640 feet for Detention and Correctional Facilities, Emergency and Protective Shelters, Homeless Centers, Residential Treatment Centers and Transitional Living Center Uses from each other (Section 40.130), subject to conceptual plans 17.37 and 17.38 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:

W75 LTS 1 2 3 & ALL LTS 4 5 6 & ALL VAC ALLEY & PRT VAC ARCHER BEG 115.79WLY SECR BLK 36 TH SE6.91 SW115.20 NW6.91 NE115.20 POB BLK 36,TULSA-ORIGINAL TOWN, COUNTY JAIL ADDN PRT RSB PRT O T TULSA & PRT OWEN AMD, City of Tulsa, Tulsa County, State of Oklahoma

22745—Charles Higgins

Action Requested:
Special Exception to allow a duplex in an RS-5 District (Section 5.020, Table 5-2); Variance of the 25 foot setback for a Special Exception Use from R-zoned lots occupied by residential uses (Section 50303-B, Table Note 4); Variance of the required number of parking spaces (Section 55.020, Table 55-1). **LOCATION:** 1012 North Main Street **(CD 1)**

Presentation:
The applicant was not present.

Interested Parties:
There were no interested parties present.

Comments and Questions:
None.

Board Action:
On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Special Exception to allow a duplex in an RS-5 District (Section 5.020, Table 5-2); Variance of the 25 foot setback for a Special Exception Use from R-zoned lots occupied by residential uses (Section 50303-B, Table Note 4); Variance of the required number of parking spaces (Section 55.020, Table 55-1) to the October 8, 2019 Board of Adjustment meeting; for the following property:

LT 4 BLK 16, BURGESS HILL ADDN, 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 4:18 p.m.

Date approved: 10/8/19

Chair