

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1021
Tuesday, March 23, 2010, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Henke, Chair	None	Alberty	Boulden, Legal
Stead, Vice Chair		Cuthbertson	
Tidwell, Secretary		Zezulka	
Van De Wiele			
White			

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Wednesday, March 17, 2010, at 1:09 p.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. Cuthbertson read the rules and procedures for the Board of Adjustment Public Hearing.

MINUTES

On **MOTION** of **Tidwell**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions") to **APPROVE** the **Minutes** of March 9, 2010 (No. 1020).

Mr. Henke stated that Item No. 9 on the agenda has been withdrawn and the applicant has requested a full refund.

Case No. 21041

Action Requested:

Variance to allow a detached garage to cover 48% of the required rear yard pursuant to Section 210(b)(5)(a).

Board Action:

On **MOTION** of **Stead**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions") to **APPROVE** a full refund of 422.00, given that this case has been withdrawn and no administrative work was preformed.

Case No. 17059-A

Action Requested:

Amendment to a previously approved plan to permit the addition of a 320 sq. ft., open pavilion to an existing community center/pool in the RS-3 district.
Location: 4862 S. 67th E. Ave.

Presentation:

Larry Wallace, 4877 S. 68th E. Ave., Tulsa, Oklahoma 74145, the applicant proposed an open pavilion for a meeting area in collaboration with the community center/pool.

Comments and Questions:

Ms. Stead asked the applicant if there was a letter of agreement regarding the utility easement. Mr. Wallace replied that the letter of agreement had been signed by the Neighborhood Association and a Pool Board member, and issued to the Mayor's office on March 17, 2010. Mr. Henke requested a copy for the case file.

Interested Parties:

Beverly Heady, 4855 S 68th E. Ave., Tulsa, Oklahoma 74145; Ms. Heady is the President of the homeowners association. Ms. Heady represents 170 members and there are no objections.

Board Action:

On **MOTION** of **Stead**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions") to **APPROVE** an Amendment to a previously approved plan to permit the addition of a 320 sq. ft., open pavilion to an existing community center/pool in the RS-3 district. According to plans, 2.6 and 2.7, the community center was approved under a special exception and the Board finds this addition to be consistent with the plan. In addition, the Board requested a copy of the letter of agreement regarding utilities passed to the Mayor's office on March 17, 2010 for the case file.

LTS 16 17 & 18 BLK 9, PARK PLAZA SIXTH, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19659-A

Action Requested:

Amendment to a previously approved site plan to permit a women's locker room addition to an existing softball facility. Location: SE/c of E. 6th St. and S. Columbia Ave.

Presentation:

Jim Beach, 200 East Brady, Tulsa, Oklahoma, the subject property is located on the University of Tulsa campus and contained in the University of Tulsa Master Plan, which is part of the Comprehensive Plan. This area was approved by the Board 1999, and then revised through an amendment to that approved site plan. The property is intended to be used by the softball/tennis facilities. The amendment today is asking to allow the addition of a women's locker room in the southwest corner of the existing softball field.

Comments and Questions:

Ms. Stead asked if this was taking up any of the parking area. Mr. Beach responded, negatively. The addition will be placed in an area that has a batting cage, which will be relocated.

Mr. Tidwell asked where the batting cages were going to be relocated. Mr. Beach apologized for misspeaking, the existing batting cage is just south of where the new locker room will be located.

Mr. Henke requested the minutes for the original approval of the plan. Ms. Stead recommended that this case be continued, allowing time for the review of the minutes from the original approval.

Interested Parties:

Paul Strokey, 2639 E. 8th St., Tulsa, Oklahoma 74101, is opposed to the amendment the University wants to make to the plan. The University must comply with prior agreements first. The University agreed not to hold events on Sunday morning from 10:00 a.m. to 12:00 noon, which is stated in the University application, and that spectators would not clog the streets during events and parking would be provided on the east side of Delaware. However, that parking lot no longer exists. The University agreed that the gates on the west side of the field would remain locked. Spectators would be required to enter through the school's parking lot to the north of the tennis center. Beginning in late February through the first Sunday in March, there were softball games in progress at 10:30 a.m. In addition, there were four large cross-county buses parked and idling on Columbia and Sixth Streets, in a clearly marked no parking zone. At other times, there have been as many as twelve buses parked and idling in a marked no parking zone down Columbia. Satellite broadcast trucks have completely block the street with the generators running for hours.

The scoreboard lights create a pink glow on the neighborhood at night so bright the homeowners have to cover the windows. The scoreboard lights remained on for three days and nights just recently. Mr. Strokey opposes the addition until previous agreed upon conditions are satisfied.

Comments and Questions:

Ms. Stead asked if the buses are parked on the churches' parking lots. Mr. Strokey replied affirmatively, as well as the streets in clearly marked no parking zones.

Applicant Rebuttal:

Mr. Beach indicated the application brought today is for the women's locker room. The locker room itself will not create any additional noise or burden on the neighborhood. Furthermore, Mr. Beach will express the neighborhood's concerns to the University of Tulsa.

Board Action:

On **MOTION** of **White**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions") to **CONTINUE** the requested amendment to a previously approved site plan to permit a women's locker room addition to an existing softball facility; until April 13, 2010 in order to review minutes from the original approval.

LT 1 BLK 1, UNIVERSITY OF TULSA B1-2&3 RSB PT HIGHLANDS & HGLNDS
2ND & COLLEGE, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 20464-B

Action Requested:

Variance of the requirement that landscaped areas shall be irrigated (Section 1002.D.2). Location: 2910 E. 56th St. N.

Presentation:

Jeff Pugh, 42 E. 16th St., Tulsa, Oklahoma 74119; subject property is an existing field of natural hills, trees and grasses. There is a proposed entry road, parking lot and skate park. The proposal is for additional native plant material, which requires supplemental irrigation with quick coupler connections within 100 feet of each tree location so the plants may be watered for an established period of one to two seasons. After establishment, the trees would exist in the natural surroundings.

Comments and Questions:

Ms. Stead asked how many of the native plants/trees would be removed. Mr. Pugh responded that nothing other than scrub brush would be removed. Parking lot trees would be added to the parking lot area. There will be additional native trees added to the skate park area.

Ms. Stead stated there should be a requirement that native plants/trees over a foot and one-half in trunk diameter would not be removed she asked how does this affects the next phase of this project. Mr. Pugh stated he was not working on that phase of the project.

Mr. White stated that the majority of trees are red cedars. Ms. Stead responded that she would not want any other native trees removed.

Mr. Van De Wiele asked if the plantings and hose coupler location were for the parking area only. Mr. Pugh responded that they are for the parking area as well as the skate park area. Ms. Stead asked what type of trees would be planted. Mr. Pugh responded lace bark elm, redbud and whitebud trees.

Ms. Stead stated that the applicant is proposing to remove planned tree plantings in the street yard, which was approved on the last plan. Mr. Pugh responded, affirmatively and confirmed that the existing well-established native trees satisfy the landscape requirement abutting 56th St.

Board Action:

On **MOTION** of **Stead**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions") to **APPROVE** a Variance of the requirement that landscaped areas shall be irrigated (Section 1002.D.2), with the following conditions. Quick couplers must be installed within 100 feet of all new plantings; that the requirement for planned tree planting in the street yard is removed, as the subject property contains sufficient native trees within the required street yard to meet or exceed the code-landscaping requirement. Existing trees, which are more than one foot in trunk diameter, shall not be removed. The Board has granted this variance finding that existing native trees, which require little water, are sufficient so that the ordinary code-landscaping requirement is not needed. These are exceptional conditions, which are peculiar to the land. The literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions 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.

TRACT #1 The Northeast Quarter (NE/4) of Section 8, Township 20 North, Range 13 East of the Indian Base and Meridian, in the County of Tulsa, Oklahoma, according to the U. S. Government Survey thereof; LESS AND EXCEPT that certain tract of land conveyed to the State of Oklahoma, as described in Deed recorded in Book 3897 at Page 1130, more particularly described by metes and bounds as follows: Beginning at a point on the South line of said NE/4 a distance of 1554.1 feet West of the SE corner of said NE/4, thence N 1°00'W a distance of 1527.8 feet, thence Northwesterly on a curve to the left having a radius of 1352.4 feet a distance of 306.6 feet, thence N 18°44'W a distance of 7.7 feet, thence N 30°03'W a distance of 204.0 feet, thence N 18°44'W a

distance of 187.5 feet, thence Northwesterly on a curve to the right having a radius of 1074.9 feet a distance of 325.9 feet, thence N 1°22'W a distance of 25.0 feet, thence S 88°38'W a distance of 201.7 feet, thence N 80°03'W a distance of 153.0 feet, thence S 88°38'W a distance of 50.0 feet, thence N 1°22'W a distance of 70.0 feet to a point on the North line of said NE/4 a distance of 451.9 feet East of the NW corner of said NE/4, thence N 88° 38'E a distance of 451.9 feet, thence S 01°35'41"E a distance of 2621.83 feet, thence N 89°43'59"E a distance of 1090.07 feet to point of beginning. Containing 35.79 acres more or less of new right-of-way, the remaining area included in the above description being right-of-way occupied by the present highway, together with all abutters rights, including all rights to access from the remaining portion of grantor's land onto the LIMITED ACCESS HIGHWAY to be constructed on the above described property, including all rights to light, air or view above the surface of the property described in this instrument, except, that grantor, heirs, successors or assigns, shall have the right of access to the Section Line Road, along the North side of the above described property, beginning at a point on the North line of the NE/4 a distance of 838.1 feet West of the NE corner of Said NE/4 and extending East, except that grantor, heirs, successors or assigns, shall have the right of access to the Section Line Road, along the North side of the above described property, beginning at a point on the North line of the NE/4 a distance of 801.9 feet East of the NW corner of said NE/4 and extending West. All bearings contained in this description are based on the Oklahoma State Plane Coordinate System and are not astronomical bearings. And Less a tract of land condemned by the City of Tulsa, Oklahoma, a municipal corporation, as described in the Order Vesting Title and Order to Disburse recorded in Book 6120 at Page 1340, more particularly described as: A tract of land containing 36.91 acres, more or less, located in the NE/4 of Section 8, Township 20 North, Range 13 East of the Indian Base and Meridian, according to the U.S. Government Survey thereof, Tulsa County, State of Oklahoma; being more particularly described by metes and bounds as follows, to wit: Commencing at the NE corner of the NE/4 of Section 8, Township 20 North, Range 13 East of the Indian Base and Meridian, thence SOO °31'41" E along the east line of said NE/4 a distance of 2642.37 feet to the SE corner of said NE/4; thence S89°41'43" W along the south line of said NE/4 a distance of 154.07 feet to the Point of Beginning; thence S89°41'43" W along the south line of said NE/4 a distance of 1100.03 feet to a point on the easterly right-of-way U.S. Highway 75; thence N00°06'44" E along said highway right-of-way a distance of 965.40 feet; thence N11 °25'44" E along said highway right-of-way a distance of 153.00 feet; thence NOO °06'44" E along said highway right-of-way a distance of 800.63 feet; thence N11° 12'16" W along said highway right-of-way a distance of 153.00 feet; thence NOO °06'44" E along said highway right-of-way a distance of 484.30 feet to a point on the southerly right-of-way of 56th Street North; thence N89°36'00" E along the said southerly right-of-way a distance of 100.00 feet; thence S00°06'44" W a distance of 1165.55 feet; thence S89°53'16"E a distance of 1000.00 feet; thence S00°06'44"W a distance of 1377.72 feet to the Point of Beginning, and containing 36.91 acres, more or less; TRACT #1 containing 98.94 acres, more or less.

Case No. 21037

Action Requested:

Special Exception to permit Contract Construction Services (window supply - Use Unit 15) in a CS district (Section 701). Location: 11202 E. 61st St. S.

Presentation:

Timothy J. Pickens, 240 West 15th Street, Tulsa, Oklahoma 74119, on behalf of Burnett Incorporated with a proposal for some reconstruction on the subject property. There will be no exterior changes to the building. All construction is remodeling to the interior for a display showroom.

Comments and Questions:

Ms. Stead asked if there were sidewalks along 61st Street. Mr. Pickens responded, affirmatively. Ms. Stead stated that the applicant would be required to maintain the sidewalks.

Mr. White asked if there is a plan for the gravel area in the rear of the subject property. Mr. Pickens responded that there would be a picnic table for employees and a tree planted for shade. Mr. White asked if the area would be used for storage. Mr. Pickens responded that it would not.

Ms. Stead stated that Use Unit 15 is so varied that a limit should be placed on the special exception for window supply use only.

Ms. Stead asked where trucks would unload. Mr. Pickens responded that they would be on the west side of the building, there are some overhead doors.

Interested Parties:

Jeff Wohead, Construction Manager for Taco Bueno, 1605 LBJ Freeway, Farmers Branch, Texas 75243, asked the following questions. Is this just a sales office? Will there be trucks parked behind the subject property? Will there be any manufacturing waste from within the subject property? Mr. Wohead is not opposed to the special exception.

Applicant's Rebuttal:

Mr. Pickens provided the site will not be used for storage. There will be no waste by-products, since there will be not manufacturing. The use within the building is a showroom, for estimates and sales.

Board Action:

On **MOTION** of **Stead**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions") to **APPROVE** the Special Exception to permit Contract Construction Services (window supply - Use Unit 15) in a CS district (Section 701), with the following conditions. As stated, all modification/changes will be interior with no exterior structural additions. Furthermore, there will be no outside storage of materials, parts, pieces or otherwise. All parking or driving surfaces must be asphalt or concrete. This approval is for window contract services (i.e., estimates and sales) and does not include any other "Use Unit 15" business. There is no manufacturing provided for under this approval. The applicant will maintain sidewalks along 61st Street. The Board has found that 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.

PRT LT 1 BEG NWC TH E122 S8 E28 S152 E25 S180 W175 N340 POB BLK 1,
NEAL PLAZA, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 21038

Action Requested:

Variance of the maximum permitted size for a detached accessory building in an RS-3 district from 770 sq. ft. to 1,500 sq. ft (Section 402.B.1.d). Location: 2040 W. 77th St.

Presentation:

Jose Quiroz, 2040 W. 77th St., Tulsa, Oklahoma 74135, representing the applicant Jesus Varela Castro indicated the proposal is to increase the size of a detached accessory building for storage of lawnmowers and other similar items.

Comments and Questions:

Ms. Stead asked if the applicant planned to remove the existing carport to the southeast. Mr. Quiroz responded that the carport would be removed. Ms. Stead stated that all driving and parking surfaces must be asphalt or concrete.

Mr. Boulden asked if the storage was for items usually expected for residential use. Mr. Quiroz responded affirmatively.

Board Action:

On **MOTION** of **Stead**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions") to **APPROVE** a **Variance** of the maximum permitted size for a detached accessory building in an RS-3 district from 770 sq. ft. to 1,500 sq. ft. (Section 402.B.1.d), finding that this tract of land containing approximately 2.5 acres is in a neighborhood that has many large detached buildings. This development was established in the 1930s before the existing code was effective. The granting of this variance is subject to the following conditions: (1) there being no business transactions on the property, (2) the existing carport is to be removed (3) all driving surfaces to this garage/building shall be asphalt or concrete, (4) subject to plan page 6.7. The exceptionally large tract is peculiar to this land, such that the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions 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.

SE NE NW SE SEC 10 18 12, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 21039

Action Requested:

Variance of the maximum aggregate display surface area for wall signs within a PUD from 2 sq. ft. per lineal foot of building wall to 2.63 sq. ft. per lineal foot of building wall (Section 1103.B.2.a) to permit a new wall sign on a developing building. Location: 7004 S. Olympia Ave.

Presentation:

Andy Patel, 704 S. Sweetgum Ave., Broken Arrow, Oklahoma 74012, the request is for a variance of the maximum aggregate display surface area for wall signs within a PUD from 2 sq. ft. per lineal foot of building wall to 2.63 sq. ft. Two square feet will allow us to put 30-inch channel letters; however, the readability from certain distances is not easy. The proposal submitted today indicates that 2.63 sq. ft., will allow 48-inch letters providing readability from Highway 75.

Comments and Questions:

Ms. Stead asked how the signs would be lighted. Mr. Patel responded that it would be by LED lighting. Ms. Stead asked if the LED would be in the interior, if they would flash or move. Mr. Patel answered, that they would be interior and would not flash or move.

Mr. Tidwell asked the actual length of the sign. Mr. Patel answered that it would be 36 feet with 48-inch letters.

Mr. Boulden asked if staff would explain PUD square footage versus outside of a PUD square footage.

Mr. Alberty responded that PUDs are more restrictive; corridor zoning is primarily limited to areas along expressways; therefore, signage can be more lenient. PUDs are more restrictive because they are traditionally interior. However, along corridors there is some leniency regarding signage.

Ms. Stead stated that the applicant would need to take this to the TMAPC since it has a PUD overlay. In addition, Ms. Stead found this building is located on lower land.

Board Action:

On **MOTION** of **Stead**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions") to **APPROVE** a Variance of the maximum aggregate display surface area for wall signs within a PUD from 2 sq. ft. per lineal foot of building wall to 2.63 sq. ft. per lineal foot of building wall (Section 1103.B.2.a), to permit a new wall sign per building face on a developing building. This approval covers both the north and south ends of the building, finding that this large tract, which is approximately 129,390 square feet, is lower than the entrance highways. If the PUD overlay had not been placed, the Code would allow for three-feet of signage. Following approval the applicant

will take this information to the TMAPC, finding that the exceptional conditions 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. The lighting of the sign will be by interior LED with no flashing, rolling or change in copy, as per plan submitted, 7.5, which is typical of both north and south ends of the building.

PRT LT 2 BEG 220NW & 193.11NE & 40NE & NWLY CRV RT 69.68 SWC
RESERVE A TH CRV RT 125.88 N139.75 W206 S25 W191.72 SE375.39
NE366.77 POB BLK 1, OLYMPIA MEDICAL PARK II, City of Tulsa, Tulsa
County, State of Oklahoma.

Case No. 21040

Action Requested:

Special Exception to permit auto body repair and painting (Use Unit 17) in the CS district (Section 701); a Special Exception to permit auto body painting on a lot within 150 ft. of R zoned land (Section 701); a Special Exception to modify the screening requirement along the east and south property lines (Section 212.C); and a Variance to permit open air storage within 300 ft. of an adjoining R district to the east (Section 1217.C.2). Location: 1307 & 1315 N. Harvard Ave.

Presentation:

Paul Wilkening, 320 S. Boston, Tulsa, Oklahoma 74103, on behalf of Los Huaches Paint & Body is requesting three special exceptions and one variance. The applicant has been in business for one year as a paint and body shop and a repair shop in this location. There is on-site painting within a paint booth located inside the building. Mr. Billy Smith recently acquired the business. In addition, the applicant rents a strip of land to the east, which has a small garage; however, that strip is still zoned residential. Mr. Smith would be willing to put an 8-foot fence wood fence on the boundary. The variance of 300 feet is requested since there have been a number of cars there and the lot is overly crowded. Lastly, the dogs and dog kennels have been removed from the property.

Comments and Questions:

Ms. Stead asked if this is to be a repair shop. Mr. Wilkening responded that it would be a body repair shop, with no mechanical repair. Ms. Stead asked if there was any painting in the two bays to the north. Mr. Wilkening answered negatively.

Ms. Stead asked if the open-air storage would be only for automobiles not parts or pieces. Mr. Wilkening responded that it would be for automobiles. Ms. Stead stated there would be no sale of vehicles. Ms. Stead stated no vehicles would be stored behind or east of the existing buildings. Mr. Wilkening responded that there would need to be an outdoor storage area somewhere on the property. It would be counterproductive to place a screening wall on the CS boundary, since the R zoned property is also rented by the applicant.

Mr. Henke asked if the applicant owns or rents the property. Mr. Wilkening answered that the property is rented from the W. K. Myers Family trust.

Ms. Stead stated that any driving or parking surface must be asphalt or concrete and that the R zoned property could not be used as for storage for vehicles.

Mr. Cuthbertson stated the R zoned property could not be used for any commercial activity.

Ms. Stead stated that in order to use the R zoned property, the applicant would need to ask for a rezoning.

Mr. Henke asked Mr. Boulden a question. Can the Board require screening on a piece of property that they rent and is separate from the subject property? Mr. Boulden responded negatively. Mr. Henke stated the fence would be between the property owner and tenant.

Ms. Stead stated, if one parks on the rear side (east) of the building, it must have asphalt or concrete.

Mr. Henke stated she would like a fence at least eight-feet in height and Mr. Wilkening has stated that the dogs are no longer on the property.

Ms. Stead stated the doctor's letter we have mentioned the paint fumes and asked if one can smell those fumes. Ms. Williams answered that on occasion items are brought outside to dry.

Ms. Stead stated that according to the plan, there would be 94-feet wide between the subject property and the business. Mr. Henke stated there would be a property that buffers the residential property.

Interested Parties:

Bill Smith, 617 S. 67th E. Ave., Tulsa, Oklahoma, responded to questions asked by Mr. Boulden. He asked how long the vehicles would be stored outside for repair. Mr. Smith answered it would be a week to two weeks. He asked how many vehicles they would have at any given time. Mr. Smith answered there would be five to ten; he also asked if there would be any inoperable vehicles stored on the Harvard side. Mr. Smith answered there would be none on the

Harvard side; the vehicles would be parked in the rear side (east) of the building so they are not seen from the public street.

Connie Williams, 3319 E. Newton, Tulsa, Oklahoma 74115, was concerned that the applicant would not be installing a ten-foot fence. In addition to the dogs kennels on the property with large dogs that barked as well as the smell of paint fumes.

Applicant's Rebuttal:

Mr. Wilkening stated that there is no outside painting.

Board Action:

On **MOTION of Stead**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions") to **APPROVE** a Special Exception to permit auto body repair and painting (Use Unit 17) in the CS district (Section 701); a Special Exception to permit auto body painting on a lot within 150 feet of an R zoned land (Section 701); a Special Exception to modify the screening requirement along the east and south property lines (Section 212.C); and a Variance to permit open-air storage within 300 ft. of an adjoining R district to the east (Section 1217.C.2), with the following conditions. (1) The special exception is permitting auto body repair and painting only under Use Unit 17. (2) This special exception does not include mechanical repair or the sale of automobiles. (3) This special exception is to permit auto body painting within 150 feet of an R zoned land, it is noted that approximately 94 feet of the R zoned land is under common ownership. (4) The special exception to modify the screening requirement along the east and south property lines; the Board is modifying this and providing for an 8-foot board fence along the R zoned property from the southeast corner of the combined properties along the east boundary approximately 180 feet or at least beyond the existing gate in the chain link fence. (5) The R zoned land and the garage/storage building in the southeast corner cannot be used for commercial purposes (i.e., the body shop and painting business). (6) All driving and parking surfaces around the building the south, north and back particularly will be asphalt or concrete. (7) There should be no outside storage of batteries, tires or other such implements on the lot. (8) The gravel on the most southerly building 1307 specifically shall be asphalt or concrete. (9) No damaged vehicles shall be parked on the lot for more than thirty days. (10) This approval on all the special exceptions and the variance shall remain in effect for three-year period from March 23, 2010, pursuant to plan page 8.8, except for the fence on the east side, on which the Board has made conditions. In granting these special exceptions, the Board has found that it 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. In granting the variance to permit storage of automobiles only, the Board finds that these are exceptional conditions or circumstances and 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.

BEG 30N & 40E SWC SW NW NW TH N150 E150 S150 W150POB SEC 33 20 13, BEG ON WL OF SEC & SL FRISCO R/W TH S66 E160 N128TO R/W TH SWLY172 POB SEC 33 20 13, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 21042

Action Requested:

Variance of the 50 ft., setback requirement from the centerline of an abutting non-arterial street to 25 ft. to permit an addition to an existing industrial structure in the IM district (Section 903). Location: 1246 S. Hudson Ave.

Presentation:

Frank Reeder, P. O. Box 1387, Catoosa, Oklahoma 74015, is requesting a variance because of the shape of the property. The proposed plan is to add to the existing building and it would not be any closer to the property line.

Comments and Questions:

Ms. Stead asked if there would be access to the addition from the existing building. Mr. Reeder responded, negatively. In order to put in the addition it would be placed right up against the existing building. The addition has overhead doors on both north and south sides and is wider than the existing building. This addition is intended for the storage of trailers. Ms. Stead stated driving or parking surfaces would need to be asphalt or concrete. Mr. Reeder it is concrete. In addition landscaping would be done according to the Code.

Board Action:

On **MOTION** of **Stead**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions") to **APPROVE** a Variance of the 50 ft., setback requirement from the centerline of an abutting non-arterial street to 25 ft. to permit an addition to an existing industrial structure in the IM district (Section 903), finding that this 2.7 acre tract is in an older industrial area where the pattern of industrial buildings were up to or close to abutting streets; with the following conditions that all driving and parking surfaces would be asphalt or concrete. As per plan 10.6, in granting this variance the Board has found 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.

S985.43 NE NW LYING E OF RR LESS N146.78 & LESS E25 & S30 FOR STS
SEC 10 19 13, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 21044

Action Requested:

Verification of the spacing requirement for a liquor store of 300 ft. from blood banks, plasma centers, day labor hiring centers, bail bond offices, pawn shops, and other liquor stores (Section 1214.C.3). Location: 9125 S. Yale Ave.

Presentation:

Clifford Nutt, 4549 S. Columbia Place, Tulsa, Oklahoma 74105, the applicant requested a verification of spacing for a liquor store. Documentation of the spacing compliance was provided in the packet.

Board Action:

On **MOTION** of **White**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions") to **ACCEPT** the Verification of the spacing requirement for a liquor store of 300 ft. from blood banks, plasma centers, day labor hiring centers, bail bond offices, pawn shops, and other liquor stores (Section 1214.C.3). This is subject to the action of the Board being void should another referenced conflicting use be established prior to this liquor store.

N150 W170 LT 3 BLK 1, HUNTERS GLEN, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 21045

Action Requested:

Variance of the maximum aggregate display surface area for wall signs within a PUD from 2 sq. ft. per lineal foot of building wall to 3 sq. ft. per lineal foot of building wall (Section 1103.B.2.a) to permit additional signs on an existing building. Location: 10106 S. Sheridan Rd.

Presentation:

Ryan McAdams, 1931 S. Knoxville Ave., Tulsa, Oklahoma 74112; the proposed site (May's building) has 13,000 square feet; the applicant is taking 2,800 square feet of this building vacated by a previous tenant. The Applicant proposes to bring in various concepts to fill the 2,800 square feet.

Comments and Questions:

Ms. Stead stated that the applicant wants 124 square feet, which is only 11.7 square feet more than the Code would allow even under the PUD. Mr. Cuthbertson indicated it would be an additional 5.6 square feet. Mr. McAdams

explained that some franchises have signage restrictions. Ms. Stead stated that the request is for 17 additional square feet of signage on the building.

Mr. McAdams stated his client wants to increase the lineal footage to 3 square feet, given that tenants in the remaining space of the building could leave. This would ensure that signage would remain the same. The applicant's current lease is for 15 years.

Ms. Stead asked what type of lighting would be used. Mr. McAdams responded they would use cabinet signs with back-lighting attached to the building.

Board Action:

On **MOTION** of **Stead**, the Board voted 4-1-0 (White, Henke, Stead, Tidwell, "aye"; Van De Wiele "nay"; no "abstentions") to **APPROVE** a Variance of the maximum aggregate display surface area for wall signs within a PUD from 2 sq. ft. per lineal foot of building wall to 3 sq. ft. per lineal foot of building wall (Section 1103.B.2.a) to permit additional signs on an existing building. This tract containing more than 60,000 square feet and a large commercial building would have been allowed 3 square feet of display per lineal foot of building wall had the PUD overlay had not been placed thereon. Based on the plan submitted today and in granting this variance, we have found that these are exceptional conditions. 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.

LT 1 BLK 1, MAY'S NO 21, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 21046

Action Requested:

A Variance of the setback requirement for a projecting sign from the centerline of an abutting street to permit a sign to extend into and over the right-of-way (Section 215; 1221.C.5; 1221.C.14); a Variance of the minimum required 30 ft of separation between projecting signs (Section 1221.C.9); and a Variance of the maximum permitted aggregate display surface area for two projecting signs on a property in the CBD of 1 sq ft per lineal foot of major street frontage (Section 1221.E.3.b); all to permit an additional projecting sign on an existing building. Location: 415 S. Boston Ave.

Presentation:

David Dryer, 5110 S. Yale Ave., Tulsa, Oklahoma, 74135, this request deals with the Atlas Life Building. The Atlas building has been placed on the historic register and, because of that, certain signage cannot be changed. The new sign will be illuminated LED with no flashing or rolling features. The Marriott requires that signage be 10 feet by 2.5 feet.

Comments and Questions:

Ms. Stead asked for an explanation to the Board as to whether the sign going to be horizontal or vertical below the existing sign. Mr. Dryer answered it would be vertical. Ms. Stead asked how many feet the sign will be from the sidewalk. Mr. Dryer responded it will be 10 feet above the sidewalk. Ms. Stead asked how the sign would be attached. Mr. Dryer answered it will be attached with secure tabs going into the side of the building so it will stand out and be a traditional blade sign. Ms. Stead asked if the City has issued a license for the use over the right-of-way. Mr. Dryer answered the City requested that when the applicant asked for and received approval of the variances, a license would be issued.

Mr. White stated that the sign only projects out 2.5 feet.

Board Action:

On **MOTION** of **Stead**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions") to **APPROVE A Variance** of the setback requirement for a projecting sign from the centerline of an abutting street to permit a sign to extend into and over the right-of-way (Section 215; 1221.C.5; 1221.C.14); a **Variance** of the minimum required 30 ft. of separation between projecting signs (Section 1221.C.9); and a **Variance** of the maximum permitted aggregate display surface area for two projecting signs on a property in the CBD of 1 sq ft. per lineal foot of major street frontage (Section 1221.E.3.b); all to permit an additional projecting sign on an existing building. The sign will be attached below the current Atlas sign. It shall be illuminated with LED; however, it will not be changeable copy, flashing. It (illumination) will be steady. The distance from the bottom of the sign to the sidewalk will be no less than 10 feet. When and if the City issues a license for use of the right-of-way, proof of that license should be sent to the case file. In granting this variance, the Board has found that these are extraordinary or exceptional conditions in a CBD district and peculiar to the land, structure or building involved. This building is on the National Historic Register and 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 and subject to the plan 13.6.

LT 5 BLK 137, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 21047

Action Requested:

Variance of the 5 ft. side yard requirement in an RS-3 district to 1.8 ft. (Section 403) to permit an addition to an existing dwelling. Location: 1426 E. 19th St.

Presentation:

Terry Ingram, 1426 E. 19th St., Tulsa, Oklahoma 74120, the applicant proposed to extend the wall of a house in an HP district. The applicant has applied with the HP registry for the improvement and received a certificate of appropriateness. The improvement will be on the east side of the house and expand the building approximately 10 feet. The addition is enclosing an area with a hot tub and will allow room for a stairway to the second level.

Comments and Questions:

Ms. Stead asked staff to explain the RS-3 district with an HP requirement. Mr. Cuthbertson explained the zoning is RS-3 with an HP overlay; therefore, the zoning that applies is RS-3.

Board Action:

On **MOTION of White**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions") to **APPROVE** a Variance of the 5 ft. side yard requirement in an RS-3 district to 1.8 ft. (Section 403) to permit an addition to an existing dwelling. Finding that the side yard of the existing dwelling is already at 1.8 feet and this is merely an extension of the wall of that structure. The house was established well before the 1970 Zoning Code and is non-conforming and subject to plan on 14.6; finding 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.

LT 1 BLK 3, HALSEY'S SUB L7&18&19B28 PARK PLACE ADDN, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 21048

Action Requested:

Special Exception to permit a carport in the required front yard in the RS-3 district (Section 210.B.10); a Variance of the maximum permitted dimension of a carport located in the required front yard from (20' X 20') (Section 210.B.10.a); and a Variance of the front yard requirement from 25 ft. to permit a covered porch addition (Section 403). Location: 1177 N. Columbia Pl.

Presentation:

Martin Villavicencio, 1177 N. Columbia Place, Tulsa, Oklahoma 74116, the applicant, appeared before the Board requesting a special exception and two variances.

Comments and Questions:

Ms. Stead entered a note for the record regarding an e-mail from City Councilor Turner asking the Board to not approve this matter. Ms. Stead asked if there was anyone there representing Councilor Turner.

Ms. Stead stated that she looked at the neighborhood and there are many carports. This carport is well constructed and it enhances the house. There is no reason to refuse the special exception or the variance.

Board Action:

On **MOTION** of **Van De Wiele**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions") to **APPROVE** a Special Exception to permit a carport in the required front yard in the RS-3 district (Section 210.B.10); a Variance of the maximum permitted dimension of a carport located in the required front yard from (20' X 20') (Section 210.B.10.a); and a Variance of the front yard requirement from 25 ft. to permit a covered porch addition (Section 403), finding that in this neighborhood, carports and porch extensions are common and 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 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. In connection with the special exception, it shall be in harmony, spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. Approved as per footprint constructed today.

LOT 6 BLK 1, HOME LAWN ADDN, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 21049

Action Requested:

Appeal the determination of an Administrative Official that the nonconforming use of the property as an office was discontinued in 1975. Location: 1137 S. Atlanta Ave.

Presentation:

Andrew Nelson, 5103 S. Sheridan, Suite 404, Tulsa, Oklahoma 74145, the applicant, is appealing the determination of an Administrative Official that the non-conforming use of the property as an office was discontinued in 1975. Therefore, the Use Unit 14 of a previous owner is still in effect. The structure was built in 1926 as a grocery store; from 1926 to 1974, it was generally used as a retail office with the sale of merchandise. In 1974, it was used as an insurance office under Use Unit 11. After that in 1975 to 2006, it was used in Use Unit 14 and that is how it is used today. The applicant read excerpts from letters from the neighborhood regarding the use of the building, the improvements to the building, and the fact that the property has always been a commercial property. The applicant asked the Board to continue the Use Unit 14 and for the \$250 that was paid on a citation issued by the Administrative Officer be returned.

Interested Parties:

Tom Neal, 2507 E. 11th Place, Tulsa, Oklahoma 74104, stated that he has lived in the area since 1995 and the property in question has always been commercial. The property is more attractive. At a recent meeting of the Renaissance Neighborhood Association, they raised this issue at the last Board meeting with 40 members present. There was one objection the remaining members had no problem with the use.

Kevin Cox, City of Tulsa, stated that this case started in January 2009. Since that time, the City has been working with the property owner. This was a complaint to the Neighborhood Inspections office. It has been investigated and due diligence has been met. There have been several meetings with the property owner and there was a notice issued to the homeowner in March of 2009. The process was that the property owner must obtain a zoning clearance permit. Through the notice, the property owner was given three months to meet this requirement. The notice was never appealed.

Comments and Questions:

Ms. Stead asked if the building had been enlarged or extended in any way. Mr. Nelson answered that he had not done any extensions. Ms. Stead asked if the applicant has seen any evidence that anyone else has made exterior changes. Mr. Nelson responded that on the back of the structure there is a little room that appears to have been added in the 1930s. At the rear of the property, there is a cistern.

Mr. Tidwell asked if the applicant had not changed the dimensions of the building. Mr. Nelson responded affirmatively; he had not changed dimensions of the building.

Mr. Boulden asked what the use was of the building on July 1, 1970 when current zoning became effective. Mr. Nelson answered that it was a Pal-Mac Sales

office. The same family owned the structure for at least 50 years. Mr. Boulden asked if they distributed from there and had a showroom. Mr. Nelson answered that it was hard to tell, although he did research the Polk's Directory, which indicated it has been mainly retail sales. Mr. Boulden asked if it then changed to office use after Pal-Mac. Mr. Nelson responded that it did for just one year and as long as the use is not discontinued for more than 36 months, then it reverts to Use Unit 14. Mr. Boulden asked in what year it changed to office use. Mr. Nelson answered 1974/1975 for one year only. In his opinion, there was never a change in use. When I purchased the property, it had a sign out front that said, "Professional Ink Mixing or Printing."

Ms. Stead asked what type of use was the Professional Ink. Mr. Nelson answered the shop owner would buy ink in larger quantities put it in smaller containers and sell to print shops.

Ms. Stead asked, Mr. Alberty, what options are available to us. Mr. Alberty responded, I would state my opinion; however, Mr. Boulden's decision will take priority. The permit office is correct and it is a legal interpretation based upon Section 1402.F if there is a change in use it has to revert to the zoning of the property. Now, there was a provision the owner could have applied for a special exception before the initiated use and the Board could have approved it as a special exception. Mr. Boulden stated the important provision here is the one cited by neighborhood inspections. He read the lines again, "That a use lawfully nonconforming may continue subject to the following provisions...that the nonconforming use of the building or of a building and land in combination when located in a residential district shall not be changed unless changed to a use permitted in the district in which it located." Once that change occurs, the lawful nonconforming use is lost. In the provision that allows it to be done by special exception, it anticipates that one would have a lawful nonconforming use and if he/she wants to change that use to something else, that is not allowed in the district. If the evidence is that the nonconforming use is lost, then this provision is not an option any longer. The law only allows an existing nonconforming use to continue. The use is not allowed in the City at that point. The law presumes this is an illegal use and it is the applicant's burden to establish to this Board that the use was never lost; that it was lawfully nonconforming and remains lawfully nonconforming.

Mr. Van De Wiele asked if the Use Unit has stated the same from 1970 to now, it could uphold. Mr. Boulden responded affirmatively. Mr. Van De Wiele asked that the applicant show a timeline of use and justify the use.

Mr. Alberty stated the burden of proof is going to be what the nonconforming use unit was. In 1970, if the use unit was 14, all of these changes provided they were all Use Unit 14 uses; that would not constitute a change in use. Now the only reason that Use Unit could have been lost is the nonconforming use of a building or building and land in combination were discontinued for 36

months during any four-year period. Mr. Alberty suggested that the case be continued to allow time for more research. The timeline submitted today is not conclusive.

Mr. Van De Wiele suggested that the applicant submit a timeline from 1970 to the present. The Board needs evidence of the use.

Ms. Stead asked Mr. Cox if he has seen the list placed before the Board. Does he maintain that the use unit was changed to the extent that the nonconforming use was discontinued? Mr. Cox responded that he did.

Ms. Stead stated that this is not a house. Mr. Cox stated that he understands that; however, the underlying zoning is RS-3. Ms. Stead stated there is no time limit. Mr. Cox answered, negatively. It is based on the change in use.

Mr. Tidwell asked for clarity on the fine. Mr. Cox responded that the property owner was issued a zoning notice on March 26, 2009, which gave the property owner ten days to appeal or a determination that the uses had changed. The information gathered by the department indicated a determination (under 1402, Section F nonconforming Use) that any change in use in a residential area requires the use to return to residential use. It was determined that the print shop was under Use Unit 15 and that the current owner is under Use Unit 11.

Mr. Henke stated that he needed the specifics stating the uses of the property.

Applicant's Rebuttal:

Mr. Nelson stated the property has always been a Use Unit 14. Use Unit 11 is general office, Use Unit 14 is retail establishments, and we sell items on E-bay.

Board Action:

On **MOTION** of **Stead**, the Board voted 3-2-0 (White, Stead, Tidwell "aye"; Henke, Van De Wiele "nay"; no "abstentions") to **APPROVE upholding the Appeal** of the determination of an Administrative Official that the nonconforming use of the property as an office was discontinued in 1975. This decision is based on the list of documented uses in the Polk's City of Tulsa Directory for the property address presented at today's meeting.

S.44 W.1/2 LT 11 S.44 EA. LTS 12 13 14 15 BK 3, TULSA SQUARE ADDN
AMD, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 21050

Action Requested:

Variance of the 75 ft. building setback from an abutting R district (Section 903); a Variance of the 5 ft. landscape separation for a parking area from an abutting R district to the north and west (Section 1002.A.3); and a Special Exception to

modify/eliminate the screening requirement on the north and west boundary (Section 212.C). Location: SW/c of E. 58th St. and S. Mingo Rd.

Mr. Tidwell recused himself at 4:23 p.m.

Presentation:

James Lawrence, 7832 S. Elm, Broken Arrow, Oklahoma 74012, the applicant, proposes to build a 17,000 square foot mixed use office, warehouse and light retail use center on the property. In 2002, the City acquired property adjoining to the applicant for the widening of the Mingo Creek channel. The closest point to a residentially occupied RS-3 zone is 110 feet away. The City and the use of property to develop the floodway have left the underlying zoning as RS-3. The applicant is asking for the setback variance because it has been accomplished with the floodway. The view will not change from what it is now.

Interested Parties:

Tracey Mortan, 5837 S. 94th E. Place, Tulsa, Oklahoma 74145, her property backs up to this proposed project. When the City acquired the property and made just a lot, the traffic noise and litter started coming into the area. She wanted to make sure that there was not going to be any removal of trees. She said the view from her property does change.

Comments and Questions:

Mr. Boulden asked if the City had easements in the area. Mr. Cuthbertson clarified that City owns the property that contains Mingo Creek.

Ms. Stead asked Ms. Mortan if she back up to the creek. She responded that she does.

Ms. Mortan explained that the notice mentioned landscaping and she wanted to make sure no trees would be removed.

Mr. Boulden asked if Ms. Mortan had any problem with the elimination of the screening fence. Ms. Mortan answered that she did. At this point, she will just see a parking lot, which lessens the value of her property.

Ms. Stead asked if there would be a problem with the placement of wood fence on the west property line. Mr. Lawrence responded that the applicant works with the engineers; however, the applicant would install what is required. The Board cannot specify the material, but they can suggest that the fence be wood or masonry. Mr. Lawrence asked if the fence could be metal. Mr. Boulden stated that metal fences are generally not allowed.

Board Action:

On **MOTION** of **Stead**, the Board voted 4-0-1 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; Tidwell "abstaining") to **Approve** the Variance of the 75 ft. building setback from an abutting R district (Section 903); a Variance of the 5 ft. landscape separation for a parking area from an abutting R district to the north and west (Section 1002.A.3); and a Special Exception to eliminate the north screening. As to the west boundary, the applicant shall install an 8-foot wood or masonry fence or similar material (Section 212.C). The applicant shall maintain the sidewalks along Mingo to the extent of the property boundaries. In granting the special exception, the Board found that it will be in harmony with the spirit of the code and not be injurious to the neighborhood or otherwise detrimental to the public welfare. In granting the variances, the Board found that by reason of extraordinary or exceptional conditions or circumstances, primarily because of the City-owned creekbed, extraordinary or exceptional conditions, which result in unnecessary hardship; these 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 and subject to the proposed conceptual plan 17.6.

PRT LT 2 BEG SECR LT 2 TH W200 N350 E200 S350 POBBLK 2, ANDERSEN ADDN, City of Tulsa, Tulsa County, State of Oklahoma.

Board Member Comments:

David White commended INCOG staff as to the quality of packets. The color photographs are great.

There being no further business, the meeting adjourned at 4:45 p.m.

Date approved: 4/13/10



Chair

