



City of Broken Arrow
Meeting Agenda
Board of Adjustment

City of Broken Arrow
Council Chambers
220 S 1st Street
Broken Arrow OK
74012

Judd Hatch Chairman
George Ghesquire Vice Chair
Kamara Washington Board Member
Rebecca Hinkle Board Member
Michelle Bergwall Board Member

Monday, August 10, 2026

5:00 PM

Council Chambers

1. Call to Order

2. Roll Call

3. Consideration of Consent Agenda

- A. [26-1234](#) Approval of Board of Adjustment meeting minutes of July 13, 2026

Attachments: [07.13.2026 Meeting Minutes](#)

4. Public Hearings

- A. [26-1264](#) Appeal (APPL-002946-2026) of three Citations for Zoning Violations (ZON-0025337-2025/Citation No 446451, ZON-025338-2025/Citation No 446454, ZON-025340-2025/Citation No 446452), D&B Processing, 18.143 acres, IL (Industrial Light), located one-third mile west of Evans Road (225th E. Avenue), one-half mile north of New Orleans Street (101st Street)

Attachments: [2-Location Map](#)
[3-Comprehensive Plan](#)
[4-Zoning Violation Letters and Citations](#)
[5-Notice of 2nd Appeal_v1](#)
[6-D&B Processing - Noise Assessment](#)
[7-2024.06.10 BA Sentinel Article](#)
[8-2026.06.18 Screenshots of Recordings](#)
[9-06.25 26 2026 Binocular photos](#)
[10-Neighbor Photo](#)
[11-Concrete Wall Photo](#)

5. General Board Business

6. Remarks, Inquiries, and/or Comments by the Board and/or Staff (No Action)

7. Adjournment

NOTICE:

- 1. IF YOU HAVE A DISABILITY AND NEED ACCOMMODATION IN ORDER TO PARTICIPATE IN THE MEETING, PLEASE CONTACT COMMUNITY DEVELOPMENT AT 918 259 8412 TO MAKE ARRANGEMENTS.**
- 2. EXHIBITS, PETITIONS, PICTURES, ETC. PRESENTED TO THE BOARD OF ADJUSTMENT MAY BE RECEIVED AND DEPOSITED IN CASE FILES TO BE MAINTAINED AT BROKEN ARROW CITY HALL.**
- 3. RINGING/SOUND ON ALL CELL PHONES AND PAGERS MUST BE TURNED OFF DURING THE MEETING.**

A paper copy of this agenda is available upon request.

POSTED this ____ day of _____, _____, at _____ a.m./p.m.

City Clerk



City of Broken Arrow

Request for Action

File #: 26-1234, **Version:** 1

**Broken Arrow Board of Adjustment
08-10-2026**

To: Chairman and Board Members
From: Community Development Department

Title: Approval of Board of Adjustment meeting minutes of July 13, 2026
Background: Minutes recorded for the Broken Arrow Board of Adjustment meeting.

Attachments: 07 13 2026 Board of Adjustment Minutes

Recommendation: Approve minutes of Board of Adjustment meeting held July 13, 2026.

Reviewed By: Jane Wyrick

Approved By: Rocky Henkel



City of Broken Arrow
Board of Adjustment
Minutes

City Hall
220 S 1st Street
Broken Arrow, OK 74012

Judd Hatch Chairman
George Ghesquire Vice Chair
Kamara Washington Board Member
Michelle Bergwall Board Member
Rebecca Hinkle Board Member

Monday, July 13, 2026

Board Chambers

1. Call to Order

Chairman Judd Hatch called the meeting to order at 5:04 p.m.

2. Roll Call

Present: 4 - George Ghesquire, Kamara Washington, Michelle Berwall, Judd Hatch
Absent: 1 - Rebecca Hinkle
Board Member Washington arrived at 5:08 p.m.

3. Consideration of Consent Agenda

A. 26-979 Approval of Board of Adjustment meeting minutes of June 8, 2026

MOTION: A motion was made by George Ghesquire, seconded by Judd Hatch

Move to approve consent agenda

The motion carried by the following vote:

Aye: 4 - George Ghesquire, Kamara Washington, Michelle Berwall, Judd Hatch

4. Public Hearings

A. 26-1039 Public hearing, consideration, and possible action regarding VAR-002919-2025, 202 Elgin Apartments approximately 0.24 acres, Downtown Residential Overlay District 5, request a variance from Section V of the Downtown Residential Overlay District regulations to modify driveway width, located approximately one-half mile north of West Houston Street (81st Street), and one-half mile west of 9th Street (177th East Avenue)

Jose Jimenez, Planner II for the City of Broken Arrow introduced this item to the Board. It is a request to waive the downtown residential overlay district driveway with regulations located approximately one-half mile northwest Houston, one-half mile west of 9th Street. The applicant has resolved the legal matters around the property and has reapplied for a variance on the property. The application of the ordinance to the property would create unnecessary hardship. The staff analysis is that lots within Broken Arrow's original town site are narrow and long, which was normal for development at the time. However, these normal lots present challenges and obstacles when developing to modern standards. Staff recommend that VAR-002919-2026 be approved, granting a variance for a 13-foot one-way driveway for a proposed flat-style development on the subject property.

Tamara Lonan representing 66 ENG Group the civil engineering group requesting the variance detailed their goals for the project and why the variance was needed.

Mr. Frank Horton, resident of Broken Arrow, spoke in opposition of the variance. He reviewed different parts of the ordinance and offered a contrasting opinion to city staff findings.

Ms. Lonan rebutted that the project was build as narrow as possible and the variance applicant has had careful thought and planning.

MOTION: A motion was made by Michelle Bergwall, seconded by Geroqe Ghesquire

Move to approve item 26-1039

The motion carried by the following vote:

Aye: 3 - George Ghesquire, Michelle Berwall, Judd Hatch
Nay: 1- Kamara Washington

Public hearing, consideration, and possible action regarding VAR-002917-2026, 7 Brew Aspen, 1.06 acres, Commercial Heavy (CH), request a variance for drive-thru stacking lane placement, located approximately one-half mile north of West Tucson Street (121st Street S) and just west of South Aspen Avenue (145th E Ave)

Jose Jimenez, Planner II for the City of Broken Arrow presented a summary of the application. The staff analysis is that the proposed quick-serve beverage facility has two other locations in Broken Arrow with high traffic amounts necessitating additional stacking lanes and space. An application of the ordinance on this particular site would not allow for the stacking lanes to be on three sides as shown in the plan, particularly due to the configuration of a lot in the location of the mutual access eastbound. Two, unusual conditions. This parcel was plotted as part of the peak development. The City of Broken Arrow has regulations regarding the allowable distances between drives onto arterial roads such as Aspen Avenue. A mutual access easement at the rear of the lot provides vehicular access to the businesses while meeting the driveway separation requirement along Aspen Avenue. However, this arrangement also creates a challenge in creating a functional site layout for a drive-through facility. Three, public good. The staff analysis is that the requirement for stacking space location is a requirement to increase the visual compatibility of storefronts and developments along an arterial road. The proposed quick service beverage facility is a unique business type with additional stacking space needs. The applicant is proposing additional landscaping with vertical height to reduce concerns surrounding visual compatibility. Four, minimum variance. The request is for a deviation that is aesthetic rather than dimensional and is the minimum variance necessary to alleviate the hardship. The applicant is proposing to include additional landscape to help mitigate views from the public way. Staff recommends that VAR-002917-2026 be approved, granting a variance for the location of drive-through stacking lanes for the proposed quick-serve beverage development.

Mr. John Rogers of Crafton Tull, civil engineer of record for the project addressed the Board and answered their questions. He indicated that the project wanted to maintain the cross-access with McDonald's, but the most optimum design is to have, vehicular access at grade with the easement to the west, the common easement, ingress, egress, and then we come in and traffic circulate around the building, so as to provide the maximum queue. Thus preventing cars from blocking street access or the flow of traffic. Additionally, he told the board of the robust landscaping plan for the project.

Aye: 4 -

The motion carried by the following vote:

George Ghesquire, Kamara Washington, Michelle Berwall, Judd Hatch

Public hearing, consideration, and possible action regarding VAR-002932-2026, Don Wells Auto Sales Lot 1 Block 1 approximately 0.45 acres, request a variance from Section 2-3-4-N of the Zoning Code requiring vehicle sales and retail to have a minimum lot size of 2.5 acres, located at the northwest corner of West Houston Street (81st Street) and Hwy 51

Jane Wyrick presented this item and the staff report to the Board. She noted the following criteria. Number one, unnecessary hardship. The application of the ordinance to the particular piece of property would create unnecessary hardship. Broken Arrow staff believe the parcel has geographic constraints that impact the economic viability of the property for commercial use. Number two, unusual conditions. Such conditions are peculiar to the particular piece of property involved. The only access is off of old Highway 51 by Houston Street. The 169 foot setback for the OTA right away from the new Highway 51 creates limited frontage visibility. The peculiarity of the lot presents unique challenges that impact the economic viability of the parcel. Number three, the public good relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the ordinance or the comprehensive plan. Staff's analysis is that the variance, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the ordinance or the comprehensive plan. This parcel is identified as level six, regional employment and commercial in the comprehensive plan. And number four, minimum variance. The variance, if granted, would be the minimum necessary to alleviate the unnecessary hardship. Allowing the platted property, platted as Donwell's Auto Sales to go back to its original use would be the minimum necessary to alleviate the unnecessary hardship. In staff's opinion, the request for the variance to reduce the minimum lot size of 2.5 acres for vehicle sales and retail satisfies all four criteria.

Applicant Jake Salyer answered questions from the board including that he could get a car dealership up and running in that space within a 6 month timeframe if the variance was approved.

MOTION: A motion was made by Geroge Ghesquire, seconded by Michelle Bergwall

Move to approve Item 26-1041

The motion carried by the following vote:

Aye: 4 - George Ghesquire, Kamara Washington, Michelle Berwall, Judd Hatch

5. General Board Business - NONE

6. Remarks, Inquiries, and/or Comments by the Board and/or Staff (No Action) - NONE

7. Adjournment

The meeting was adjourned at approximately 5:38 p.m.

MOTION: A motion was made by Kamara Washington, seconded by Michelle Bergwall

Move to adjourn

The motion carried by the following vote:

Aye: 4 - George Ghesquire, Kamara Washington, Michelle Bergwall, Judd Hatch



City of Broken Arrow

Request for Action

File #: 26-1264, **Version:** 1

**Broken Arrow Board of Adjustment
08-10-2026**

To: Chairman and Board Members
From: Development Services Department
Title:

Appeal (APPL-002946-2026) of three Citations for Zoning Violations (ZON-0025337-2025/Citation No 446451, ZON-025338-2025/Citation No 446454, ZON-025340-2025/Citation No 446452), D&B Processing, 18.143 acres, IL (Industrial Light), located one-third mile west of Evans Road (225th E. Avenue), one-half mile north of New Orleans Street (101st Street)

Background:

Applicant: Tadd Bogan
Property Owners: Industrial Developers of Oklahoma 5, LLC; Rogers Family Investments, LLC; Nunneley Investments, LTD
Business Owner: D&B Processing, LLC
Developer: NA
Surveyor: N/A
Location: One-third mile west of Evans Road (225th E. Avenue), one-half mile north of New Orleans Street (101st Street)
Size of Tract 18.14 acres
Number of Lots: 3
Present Zoning: A-IL (Annexed-Industrial Light)
Comp Plan: Level 6 (Regional Employment/Commercial)

APPL-002946-2026 is an appeal of three Citations related to Zoning Violations (ZON-025337-2025/Citation No 446451, ZON-025338-2025/Citation No 446454, and ZON-025340-2025/Citation No 446452) for violations of the Industrial Light zoning district rules and regulations issued on June 9, 2026. Each of these violations pertain to separate parcels where D&B Processing, LLC conducts their business operations. These include 21900 E 96th Street, 9600 S 219th E Avenue, and 9750 S 219th E Avenue as shown on the attached Location Map. There were initially four zoning violations and citations; however, Citation No. 446453 was voided and the zoning violation case ZON-025339-2025 was closed as resolved when it was determined that no manufacturing is occurring on this parcel.

The City of Broken Arrow received numerous complaints in 2025 and 2026 from a property owner who lives in the vicinity of D&B Processing, LLC. The complaints included objectionable noise, dust, vibrations, and indicated that not all manufacturing was being conducted within an enclosed structure stemming from industrial operations. Code Enforcement and Building Inspection staff conducted an inspection of the property that

revealed the existence of conditions that violate the City of Broken Arrow Zoning Code related to Commercial and Industrial Districts, Section 2-1-2 (D). This section of the code states that uses within the Industrial Light District are to conduct all operations entirely within an enclosed building and cannot produce airborne emissions, objectionable noise, glare, odor, vibrations, or dust associated with the industrial operation.

The appellant filed a previous notice of appeal; however, it could not be heard by the Board of Adjustment because it was deemed untimely. New citations were issued, and the appellant subsequently filed the current appeal related to the zoning violations. The City of Broken Arrow Zoning Ordinance, Section 6-3-5.3.B.1.a states that “all administrative decisions or any order, requirement, permit, decision, determination, refusal, or interpretation made by the Director in interpreting and/or enforcing the provisions of this Ordinance may be appealed to the Board of Adjustment.” Therefore, this Appeal of the Community Development Department Director’s decision to cite the business owner for zoning code violations is before this Board for consideration.

Appellant states that D&B Processing, LLC has taken measures to address the violations that include moving materials to the opposite side of the building away from the nearby residential use, prohibiting the playing of music, prohibiting the dumping of scrap materials at night, limiting the use of forklifts at night, purchasing a water truck to reduce dust, monitoring noise levels and changing other practices as outlined in the attached Notice of 2nd Appeal. D&B Processing is also proposing to construct a concrete sound wall to reduce noise impacts. Appellant, on behalf of D&B Processing, LLC, requests that the “Zoning Notices/Citations be overturned due to D&B’s compliance with the applicable Zoning Ordinance.”

Appellant states that the use of the term “objectionable noise” is not defined in the Zoning Ordinance. Appellant also states that D&B Processing measures noise from its operations and has hired B.D. Haiduk Acoustics, LLC to conduct a noise assessment in the area where D&B Processing is operating. The noise assessment results are attached. D&B Processing has constructed an eight-foot-high concrete wall to mitigate potential noise.

The Board of Adjustment will need to determine if the administrative decision was appropriate given the record of the case and the evidence presented and that the decision reflects the requirements contained in the Zoning Ordinance. Further, Section 6-3-5.3.C of the Broken Arrow Zoning Ordinance explicitly states that a decision on an appeal decision cannot grant or issue a Variance as referenced in Section 6-3-5.3.C.2. Staff have reviewed the record of the case and the evidence presented and have determined that the industrial operations by D&B Processing, LLC violated the Zoning Ordinance, Section 2-1-2(D).

Attachments: Location map
 Comprehensive Plan
 Zoning Violation Letters or Citations
 Notice of 2nd Appeal
 Noise Assessment
 BA Sentinel Article
 Screenshots of Recordings
 Binocular photos
 Neighbor photo
 Concrete wall photo

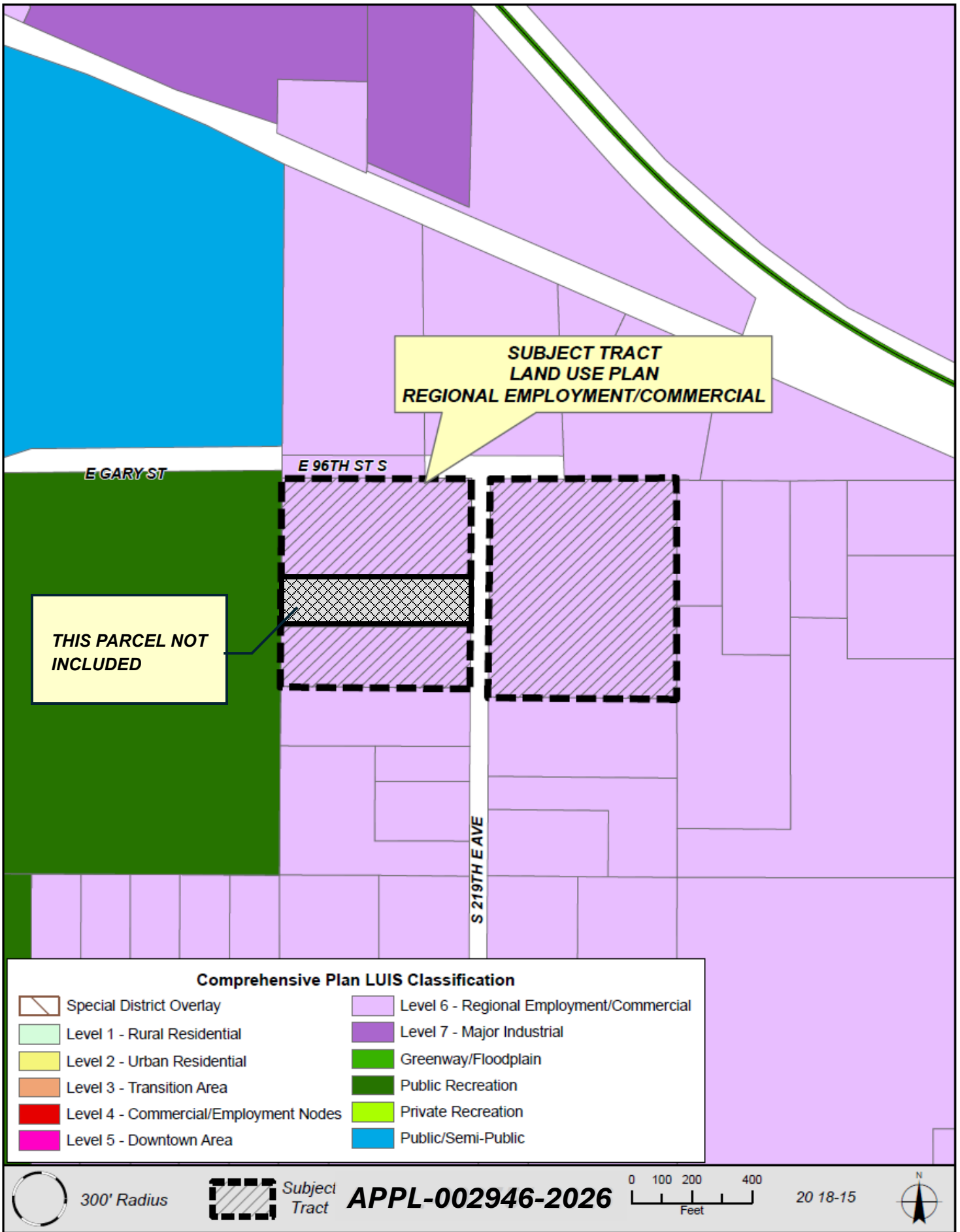
Recommendation:

Based on the City of Broken Arrow Zoning Ordinance, Section 2-1-2 (D), the record of the case, and the

evidence presented, staff recommends that APPL-002946-2026 be denied.

Reviewed by: Jane Wyrick

Approved by: Rocky Henkel



**City of Broken Arrow**

PO Box 610
Broken Arrow OK 74013
Phone: (918) 259-2411 Ext. 2399

Case Number: **ZON-025337-2025****Zoning
Violation**

Case Type: Zoning

Date Case Established: 12/05/2025

Compliance Deadline: **01/05/2026****Owner:** D&B Processing**Mailing Address:**

D&B Processing
PO Box 141290
BROKEN ARROW, OK 74014--583

Notice of Violation for the following location:**Address:**

21900 E 96TH ST S
BROKEN ARROW, OK 74014

Parcel:

730005761

A recent inspection of the property referenced above revealed the existence of conditions which, if not corrected, are considered a violation of the City of Broken Arrow Zoning Code, cited below.

Additional Information**Subdivision:** Venture 777**Legal Description:** 20-18-15 BEG AT THE CENTER OF SEC 20 -E 660' TO POB-S 726'- E 660'- N 726'- W 660' TO POB BK 1084 PG 327 (BA CITY ANNEX-CITY)

Description of Violation: The property referenced is currently zoned Industrial Light (IL) allowing for light manufacturing provided all operations are conducted entirely within an enclosed structure producing no objectionable noise, vibrations, smoke or dust associated with the industrial operation. The manufacturing being performed is not conducted entirely within an enclosed structure and is producing objectionable noise, and vibrations affecting neighboring properties therefore is in violation of the IL zoning district.

Violation: 2-1-2 (D) Commercial and Industrial Districts (IL) - Commercial and Industrial Districts (IL)
Zoning Code Section 2-1-2 (D) - Commercial and Industrial Districts: Industrial Light (IL). The IL district is intended to provide for light manufacturing, processing, service, storage, wholesale, and distribution operations with all operations contained within an enclosed building. The intent of the IL district is to preserve land for light industrial and service-oriented commercial uses. (Light manufacturing is defined as an establishment engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing. The manufacture, assembly, research, or processing of products and goods occurs entirely within an enclosed structure requiring no outdoor industrial wastewater treatment system, and producing no airborne emissions, objectionable noise, glare, odor, vibrations, smoke or dust associated with the industrial operation. Outdoor storage of raw materials and products is permitted with proper screening).

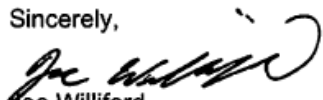
Corrective Action: Bring property into compliance with the Zoning Code as set out in section 2-1-2 (D) Commercial and Industrial Districts by conducting all operations entirely within an enclosed structure producing no airborne emissions, objectionable noise, glare, odor, vibrations, smoke or dust associated with the industrial operation.

Compliance Date: 01/05/2026

To be in compliance with the Municipal Zoning Code, you will need to comply with this notice by the compliance date indicated above. FAILURE TO COMPLY MAY RESULT IN THE ISSUANCE OF A CITATION.

You may appeal the Code Official's decision, to the Board of Adjustment, within fourteen (14) days of the date on this notice, by filing a written notice of appeal to the Director, explaining where you assert there is an error in any order, requirement, permit, decision, determination, refusal, or interpretation made by the Code Official. Upon receipt of an appeal application and payment of the required fee at the Permit Center of City Hall, the Director will schedule your case to be heard by the Board of Adjustment

Sincerely,



Joe Williford
Chief Building Inspector

IN THE MUNICIPAL COURT OF THE CITY OF BROKEN ARROW, OKLAHOMA

STATE OF OKLAHOMA
TULSA COUNTY
WAGONER COUNTY

72/60 ☐ S.S.
73/60 ☒

Atty.

446451

Case No.

COMPLAINT INFORMATION

on or about (date) 06/09/26 at (time) 21900 E 96th St at or near (location)
within the city, county, and state aforesaid:
Name (last, first, middle) Burgess, Doug Phone Number Res. _____
Address PO Box 141290 Phone Other _____
City Broken Arrow State OK Zip Code 74014
Birthdate (mo., day, yr) _____ Height _____ Weight _____ Race _____ Sex _____ Class _____ CDL _____ Endorsements _____
Driver's License Number _____ Month/Year _____ State _____
Vehicle - Make _____ VIN# _____ Did Unlawfully: ☐ Operate ☐ Park ☐ Other _____
Vehicle - Model _____ Year _____ Body Style-Color _____ Tag Number _____ Year _____ State _____
Employer Name _____ Phone Number _____ Address _____

and did then and there commit the following offense:

SPEEDING MPH in _____ MPH Zone ☐ Pace ☐ Radar ☐ Lidar ☐ Other ☐
Other Violation (include specific facts supporting charge): _____

Ordinance #

Zoning Code 2-1-2 A Commercial and Industrial Districts

VIOLATION TYPE: ☐ Construction ☐ School COLLISION ☐ PD ☐ PI
HIGHWAY TYPE: ☐ 1 lane ☐ 2 lane ☐ 3 lane ☐ 4 or more undivided ☐ 4 or more divided

"I, the undersigned issuing officer, hereby certify and swear that I have read the foregoing information and know the facts and contents thereof and that the facts supporting the criminal charge stated therein are true."

Valerie Holbrook 5245
Signature of Officer Badge Number

WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR IN SAID COURT ON

(Month) 07 / (Day) 14 / (Year) 2026 AT 2:00 PM OR PAY THE FINE
INDICATED ON OR BEFORE THE COURT DATE. BY MY SIGNATURE I
UNDERSTAND MY RELEASE TO APPEAR FOR ARRAIGNMENT IS CONDITIONAL
AND THAT FAILURE TO APPEAR AS PROMISED SHALL RESULT IN THE
SUSPENSION OF MY DRIVER'S LICENSE IN OKLAHOMA, OR IF A NONRESIDENT,
IN MY HOME STATE PURSUANT TO THE NONRESIDENT VIOLATOR COMPACT.

SIGNATURE [Signature] DATE 6-9-26

ADDRESS OF COURT
2304 South 1st Pl.
Broken Arrow, Oklahoma
Walk-In Payment

MAILING ADDRESS
Court Clerk
Municipal Court
P.O. Box 610
Broken Arrow, Oklahoma 74013

Monday-Friday 8:00a.m. - 5:00 p.m.

INCLUDE THIS CITATION OR A COPY WITH PAYMENT - DO NOT SEND CASH.
MAKE CHECKS PAYABLE TO THE CITY OF BROKEN ARROW.

☐ Jail ☐ Other

Officer's Remarks:

Zoning notice - 025337-2025

NAME AND ADDRESS OF PARENT OR GUARDIAN

JUV. RECEIPT #

446451

**City of Broken Arrow**

PO Box 610
Broken Arrow OK 74013
Phone: (918) 259-2411 Ext. 2399

Case Number: **ZON-025338-2025****Zoning
Violation**

Case Type: Zoning

Date Case Established: 12/05/2025

Compliance Deadline: **01/05/2026**

Owner: D&B Processing

Mailing Address:

D&B Processing
PO Box 141290
BROKEN ARROW, OK 74014--583

Notice of Violation for the following location:**Address:**

9600 S 219TH EAST AVE
BROKEN ARROW, OK 74014

Parcel:

730006113

A recent inspection of the property referenced above revealed the existence of conditions which, if not corrected, are considered a violation of the City of Broken Arrow Zoning Code, cited below.

Additional Information**Subdivision:**

Legal Description: 20-18-15 A TR OF LAND IN THE NW SE BEG AT THE NW COR OF THE NW OF THE SE OF, SEC 20 -S 00 DEG 07'45" E A DIST OF 330' -S 89 DEG 56' 10" E A DIST OF 660' -N, 00 DEG 07'45" W A DIST OF 330' -N 89 DEG 56'10" W A DIST OF 660' TO POB SUBJ, TO A 30' RDWY & UTIL EASE ALONG THE E SIDE THEREOF BK 568 PG 66
**ZELIGSON, CORP (B A CITY ANNEX-CITY)

Description of Violation: The property referenced is currently zoned Industrial Light (IL) allowing for light manufacturing provided all operations are conducted entirely within an enclosed structure producing no objectionable noise, vibrations, smoke or dust associated with the industrial operation. The manufacturing being performed is not conducted entirely within an enclosed structure and is producing objectionable noise, and vibrations affecting neighboring properties therefore is in violation of the IL zoning district.

Violation: 2-1-2 (D) Commercial and Industrial Districts (IL) - Commercial and Industrial Districts (IL)
Zoning Code Section 2-1-2 (D) - Commercial and Industrial Districts: Industrial Light (IL). The IL district is intended to provide for light manufacturing, processing, service, storage, wholesale, and distribution operations with all operations contained within an enclosed building. The intent of the IL district is to preserve land for light industrial and service-oriented commercial uses. (Light manufacturing is defined as an establishment engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing. The manufacture, assembly, research, or processing of products and goods occurs entirely within an enclosed structure requiring no outdoor industrial wastewater treatment system, and producing no airborne emissions, objectionable noise, glare, odor, vibrations, smoke or dust associated with the industrial operation. Outdoor storage of raw materials and products is permitted with proper screening).

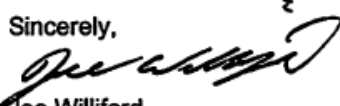
Corrective Action: Bring property into compliance with the Zoning Code as set out in section 2-1-2 (D) Commercial and Industrial Districts by conducting all operations entirely within an enclosed structure producing no airborne emissions, objectionable noise, glare, odor, vibrations, smoke or dust associated with the industrial operation.

Compliance Date: 01/05/2026

To be in compliance with the Municipal Zoning Code, you will need to comply with this notice by the compliance date indicated above. FAILURE TO COMPLY MAY RESULT IN THE ISSUANCE OF A CITATION.

You may appeal the Code Official's decision, to the Board of Adjustment, within fourteen (14) days of the date on this notice, by filing a written notice of appeal to the Director, explaining where you assert there is an error in any order, requirement, permit, decision, determination, refusal, or interpretation made by the Code Official. Upon receipt of an appeal application and payment of the required fee at the Permit Center of City Hall, the Director will schedule your case to be heard by the Board of Adjustment

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Williford", with a small superscript "2" above the end of the signature.

Joe Williford
Chief Building Inspector

IN THE MUNICIPAL COURT OF THE CITY OF BROKEN ARROW, OKLAHOMA

STATE OF OKLAHOMA
TULSA COUNTY 72/60 ☐ S.S.
WAGONER COUNTY 73/60 ☒

Atty.
446454

Case No. _____

COMPLAINT-INFORMATION

on or about (date) 06/09/16 at (time) _____ at or near (location) 9600 S 219th E Ave
within the city, county, and state aforesaid:

Name (last, first, middle) Burgess, Doug Phone Number Res. _____
Address Po Box 141290 Phone Other _____

City Broken Arrow State OK Zip Code 74014

Birthdate (mo., day, yr.) _____ Height _____ Weight _____ Race _____ Sex _____ Class _____ CDL _____ Endorsements _____

Driver's License Number _____ Month/Year _____ State _____

Vehicle - Make _____ VIN# _____ Did Unlawfully: ☐ Operate ☐ Park ☐ Other _____

Vehicle - Model _____ Year _____ Body Style-Color _____ Tag Number _____ Year _____ State _____

Employer Name _____ Phone Number _____ Address _____

and did then and there commit the following offense:

SPEEDING _____ MPH in _____ MPH Zone _____ Page _____ Radar _____ Lidar _____ Other _____

Other Violation (include specific facts supporting charge): _____

Ordinance # _____

Zoning Code 2-J-2 D Commercial and Industrial Districts

VIOLATION TYPE: ☐ Construction ☐ School COLLISION _____

HIGHWAY TYPE: ☐ 1 lane ☐ 2 lane ☐ 3 lane ☐ 4 or more undivided ☐ 4 or more divided ☐ PD ☐ PI

"I, the undersigned issuing officer, hereby certify and swear that I have read the foregoing information and know the facts and contents thereof and that the facts supporting the criminal charge stated therein are true."

Signature of Officer William H. Brock Badge Number 545

WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR IN SAID COURT ON:

(Month) 07 (Day) 14 (Year) 2016 AT 2:00 PM OR PAY THE FINE
INDICATED ON OR BEFORE THE COURT DATE. BY MY SIGNATURE I
UNDERSTAND MY RELEASE TO APPEAR FOR ARRAIGNMENT IS CONDITIONAL
AND THAT FAILURE TO APPEAR AS PROMISED SHALL RESULT IN THE
SUSPENSION OF MY DRIVER'S LICENSE IN OKLAHOMA OR, IF A NONRESIDENT,
IN MY HOME STATE PURSUANT TO THE NONRESIDENT VIOLATOR COMPACT.

SIGNATURE [Signature] DATE 6-9-2016

ADDRESS OF COURT
2304 South 1st Pl.
Broken Arrow, Oklahoma
Walk-In Payment
Monday-Friday 8:00a.m. - 5:00 p.m.

MAILING ADDRESS
Court Clerk
Municipal Court
P.O. Box 610
Broken Arrow, Oklahoma 74013

INCLUDE THIS CITATION OR A COPY WITH PAYMENT - DO NOT SEND CASH.
MAKE CHECKS PAYABLE TO THE CITY OF BROKEN ARROW.

☐ Jail ☐ Other

Officer's Remarks:

Zoning Notice - 025338-2025

NAME AND ADDRESS OF PARENT OR GUARDIAN

☐ JUV. RECEIPT #

446454



City of Broken Arrow
PO Box 610
Broken Arrow OK 74013
Phone: (918) 259-2411 Ext. 2399

Case Number: **ZON-025340-2025**

Zoning Violation

Case Type: Zoning

Date Case Established: 12/05/2025

Compliance Deadline: **01/05/2026**

Owner: INDUSTRIAL DEVELOPERS OF OKLAHOMA 5 LLC

Mailing Address:

INDUSTRIAL DEVELOPERS OF OKLAHOMA 5 LLC
111 S ELGIN AVE
Tulsa, OK 74120

Notice of Violation for the following location:

Address:

9750 S 219TH EAST AVE
BROKEN ARROW, OK 74014

Parcel:

730005490

A recent inspection of the property referenced above revealed the existence of conditions which, if not corrected, are considered a violation of the City of Broken Arrow Zoning Code, cited below.

Additional Information

Subdivision:

Legal Description: 20-18-15 TR OF LAND IN NW SE SEC 20/18 /15 DESC AS BEG AT PT ON W LN OF SD NW, SE SD PT BEING 495' S OF NW COR -S 00DEG 7'45"E ALNG SD W LINE A DIST 198' -S, 89DEG 56'10"E 630' -N 00DEG 7'45"W A DIST OF 198' -N 89DEG 56'10" W DIST OF, 630' TO POB **INGERSOL RAND LEASE(BA CITY ANNEX-CITY)

Description of Violation: The property referenced is currently zoned Industrial Light (IL) allowing for light manufacturing provided all operations are conducted entirely within an enclosed structure producing no objectionable noise, vibrations, smoke or dust associated with the industrial operation. The manufacturing being performed is not conducted entirely within an enclosed structure and is producing objectionable noise, and vibrations affecting neighboring properties therefore is in violation of the IL zoning district.

Violation: 2-1-2 (D) Commercial and Industrial Districts (IL) - Commercial and Industrial Districts (IL) Zoning Code Section 2-1-2 (D) - Commercial and Industrial Districts: Industrial Light (IL). The IL district is intended to provide for light manufacturing, processing, service, storage, wholesale, and distribution operations with all operations contained within an enclosed building. The intent of the IL district is to preserve land for light industrial and service-oriented commercial uses. (Light manufacturing is defined as an establishment engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing. The manufacture, assembly, research, or processing of products and goods occurs entirely within an enclosed structure requiring no outdoor industrial wastewater treatment system, and producing no airborne emissions, objectionable noise, glare, odor, vibrations, smoke or dust associated with the industrial operation. Outdoor storage of raw materials and products is permitted with proper screening).

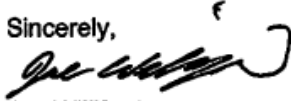
Corrective Action: Bring property into compliance with the Zoning Code as set out in section 2-1-2 (D) Commercial and Industrial Districts by conducting all operations entirely within an enclosed structure producing no airborne emissions, objectionable noise, glare, odor, vibrations, smoke or dust associated with the industrial operation.

Compliance Date: 01/05/2026

To be in compliance with the Municipal Zoning Code, you will need to comply with this notice by the compliance date indicated above. FAILURE TO COMPLY MAY RESULT IN THE ISSUANCE OF A CITATION.

You may appeal the Code Official's decision, to the Board of Adjustment, within fourteen (14) days of the date on this notice, by filing a written notice of appeal to the Director, explaining where you assert there is an error in any order, requirement, permit, decision, determination, refusal, or interpretation made by the Code Official. Upon receipt of an appeal application and payment of the required fee at the Permit Center of City Hall, the Director will schedule your case to be heard by the Board of Adjustment

Sincerely,



Joe Williford
Chief Building Inspector

IN THE MUNICIPAL COURT OF THE CITY OF BROKEN ARROW, OKLAHOMA

STATE OF OKLAHOMA
TULSA COUNTY
WAGONER COUNTY

72/60 ☐ S.S.
73/60 ☒

Atty.

446452

Case No. _____

COMPLAINT-INFORMATION

on or about (date) 06/09/16 at (time) _____ at or near (location) 9750 S 219th E Ave
within the city, county, and state aforesaid:

Name (last, first, middle) Burgess, Doug Phone Number Res. _____

Address PO Box 141290 Phone Other _____

City Broken Arrow State OK Zip Code 74014

Birthdate (mo., day, yr.) _____ Height _____ Weight _____ Race _____ Sex _____ Class _____ CDL _____ Endorsements _____

Driver's License Number _____ Month/Year _____ State _____

Vehicle - Make _____ VIN# _____ Did Unlawfully: ☐ Operate ☐ Park ☐ Other _____

Vehicle - Model _____ Year _____ Body Style-Color _____ Tag Number _____ Year _____ State _____

Employer Name _____ Phone Number _____ Address _____

and did then and there commit the following offense:

SPEEDING _____ MPH in _____ MPH Zone ☐ Pace ☐ Radar ☐ Lidar ☐ Other ☐

Other Violation (include specific facts supporting charge): _____

Ordinance # _____

Zoning Code 2-1-2 p Commercial and Industrial District

VIOLATION TYPE: ☐ Construction ☐ School COLLISION

HIGHWAY TYPE: ☐ 1 lane ☐ 2 lane ☐ 3 lane ☐ 4 or more undivided ☐ 4 or more divided ☐ PD ☐ PI

"I, the undersigned issuing officer, hereby certify and swear that I have read the foregoing information and know the facts and contents thereof and that the facts supporting the criminal charge stated therein are true.

Valerie D. D. Brook 5245
Signature of Officer Badge Number

WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR IN SAID COURT ON

(Month) 07 (Day) 14 (Year) 2016 AT 2P M OR PAY THE FINE
INDICATED ON OR BEFORE THE COURT DATE. BY MY SIGNATURE I
UNDERSTAND MY RELEASE TO APPEAR FOR ARRAIGNMENT IS CONDITIONAL
AND THAT FAILURE TO APPEAR AS PROMISED SHALL RESULT IN THE
SUSPENSION OF MY DRIVER'S LICENSE IN OKLAHOMA OR, IF A NONRESIDENT,
IN MY HOME STATE PURSUANT TO THE NONRESIDENT VIOLATOR COMPACT.

[Signature] SIGNATURE DATE 6-9-2016

ADDRESS OF COURT
2304 South 1st Pl.
Broken Arrow, Oklahoma
Walk-In Payment
Monday-Friday 8:00a.m. - 5:00 p.m.

MAILING ADDRESS
Court Clerk
Municipal Court
P.O. Box 610
Broken Arrow, Oklahoma 74013

INCLUDE THIS CITATION OR A COPY WITH PAYMENT - DO NOT SEND CASH.
MAKE CHECKS PAYABLE TO THE CITY OF BROKEN ARROW.

☐ Jail ☐ Other

Officer's Remarks: _____

Zoning notice - 025340 - 2025

NAME AND ADDRESS OF PARENT OR GUARDIAN

☐ JUV. RECEIPT #

446452

BOARD OF ADJUSTMENT FOR THE CITY OF BROKEN ARROW

OWNER: D&B PROCESSING, LLC
CASE NUMBERS: ZON-025337-2025 (Citation No. 446451)
ZON-025338-2025 (Citation No. 446454)
ZON-025339-2025 (Citation 446453)
ZON-025340-2025 (Citation 446452)
ADDRESSES: 21900 E. 96TH ST S., BROKEN ARROW, OK 74014
9600 S. 219TH EAST AVE., BROKEN ARROW, OK 74014
9740 S. 219TH EAST AVE., BROKEN ARROW, OK 74014
9750 S. 219TH EAST AVE., BROKEN ARROW, OK 74014

NOTICE OF APPEAL

COMES NOW, D&B Processing, LLC (“D&B”), by and through its attorney, Tadd J.P. Bogan of the law firm of Jones, Gotcher & Bogan, P.C., and hereby provides the following written Notice of Appeal to the Board of Adjustment for the City of Broken Arrow (the “City”) regarding the above-referenced Zoning Notices and Citations, and in support states as follows:

1. D&B’s business is operated out of three (3) plants and a storage yard in an industrial park annexed into the City, which are located at the addresses above.¹
2. On December 5, 2025, the City issued four (4) Zoning Violations to D&B in the above-referenced case numbers for alleged violations of the Industrial Light zoning rules and regulations.
3. The Zoning Violations allege, “[t]he manufacturing being performed is not conducted entirely within an enclosed structure and is producing objectionable noise, and vibrations affecting neighboring properties therefore it is in violation of the IL zoning district.”
4. D&B was given until January 5, 2026, to comply with requirements set forth in the Zoning Violations.

¹ The industrial park also connects to the new amphitheater currently being constructed by Evans Rd. or E Gary Street.

5. On March 9, 2026, the City issued D&B a Citation/Summons, Case No. 444431, alleging D&B violated “Zoning Code 2-1-2 D Commercial and Industrial Districts” (the “Original Citation”).

6. On March 17, 2026, D&B appealed the Original Citation and Zoning Notice ZON-025340-2025 to the City (the “Initial Appeal”).

7. D&B’s Initial Appeal was set for hearing before the City on May 11, 2026, but the hearing was continued to June 8, 2023, due to the City’s failure to properly place signage notifying the public of said hearing. Further, the City staff discovered that D&B erroneously only appealed one (1) of the four (4) Zoning Notices. However, counsel for the City agreed for D&B to file an amended notice of appeal including all four (4) Zoning Notices before the next hearing.

8. On May 12, 2026, D&B filed its *First Amended Notice of Appeal* and included all four (4) Zoning Notices therein, and provided new mailing labels to the City for notice thereof.

9. Notwithstanding the foregoing, and the fact that D&B timely filing an appeal of the Original Citation, on June 8, 2026, the City dismissed D&B’s appeal for failure to file the appeal within fourteen (14) days of its receipt of the Zoning Notices.

10. On June 9, 2026, the day after the City dismissed D&B’s Initial Appeal as untimely, the City issued four (4) new citations to D&B based upon the same initial Zoning Notices, which are set forth above.

11. As stated above, according to the Zoning Notices, “[t]he manufacturing being performed is not conducted entirely within an enclosed structure and is producing objectionable noise, and vibrations affecting neighboring properties therefore is in violation of the IL zoning district.” (emphasis added)

12. Pursuant to the City Zoning Ordinance, as amended 7/1/25, and as set forth in the Zoning Notices, “Manufacturing, Light” is defined as, “[a]n establishment engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing. The manufacture, assembly... or processing of products and goods occurs entirely within an enclosed structure requiring no outdoor industrial wastewater treatment system, and producing no airborne emissions, objectionable noise, glare, odor, vibrations, smoke or dust associated with the industrial operation. Outdoor storage of raw materials and products is permitted with proper screening. Examples include, but are not limited to: airplane, automobile, or truck assembly, remodeling, or repair... boat building; computer chip manufacturing; machine or blacksmith shops; metalworking or welding shops... paint shops; and printing and publishing shops.”

13. First, the undefined term “objectionable noise” is unconstitutionally vague and ambiguous. The term “objectionable noise” is subjective, and the Zoning Code provides no guidance or other measurable criteria to instruct D&B on what noises and/or noise levels are prohibited. Further, the Zoning Code, and Table 2-2-2-1 therein, provides no use-specific standards. *See Johnson v. U.S.*, 576 U.S. 591 (2015), (“[t]he Government violates the Due Process Clause when... a criminal law [is] so vague that it fails to give ordinary people fair notice of the conduct it punishes, or so standardless that it invites arbitrary enforcement.”)

14. Notwithstanding the foregoing, “objectionable noise” is measured by a reasonable person standard. Thus, in order for the noise produced by D&B to be considered objectionable, such noise must be objectionable to a reasonable person.

15. The noise allegedly created by D&B was not objectively objectionable (to a reasonable person), and, for most of the noise in the record in this case, there is insufficient evidence to establish that D&B created such noise.²

16. D&B continuously measures the decibel levels of the noise from its operations. The levels below are the decibel measurements 192 yards (576 feet) from the nearest residence, and essentially at the exterior of D&B Plant 3. The decibel level at D&B's property when it is closed and no activity is occurring is approximately 55-60 decibels (or higher). For comparison, the decibel level of a quiet library is approximately 40 decibels, conversational speech or an air conditioner is approximately 60 decibels, a shower, dishwasher, or traffic is approximately 70 decibels, a toilet flushing or a vacuum cleaner is approximately 75 decibels, an alarm clock or garbage disposal is approximately 80 decibels, a passing diesel truck is 85 decibels, and a lawnmower is approximately 90 decibels. Below is a list of notable decibel readings which have occurred from January 6, 2026, the duration of such levels, and common activities with relative decibel levels³:

Decibel Level	Duration	Associated Activities
72	< 10 Seconds	Dishwasher or shower to a toilet flushing
65	< 10 Seconds	Conversation or air conditioner to a shower
68	< 10 Seconds	Shower, dishwasher, or traffic

17. If the source of the noise was 10 yards from D&B's decibel reader, and the decibel reader recorded 70 decibels, 192 yards away, at the complainant's residence, the decibels would be approximately 44 decibels.⁴

² Other business within the industrial park produce noises, use semi-trucks, and use forklifts.

³ See *Sound Proofing Guide*, <https://soundproofingguide.com/decibels=level-comparison-chart/>, 2006; and Level of Noise in Decibels (dB), American Academy of Audiology, 2023 poster, <https://audiology.org/wp-content/uploads/2023/09/PR23-Poster-Noise-Chart-8.5x11.pdf>.

⁴ See https://hyperphysics.gsu.edu/hbase/Acoustic/isprob2.html?utm_source=copilot.com & <https://sciencedemonstrations.fas.harvard.edu/presentations/inverse-square-intensity>

18. The owner of the nearest residence to D&B's properties does not live in the City of Broken Arrow, and is the only person complaining about D&B's operations.

19. Most of the neighbor's initial complaints related to semi-truck traffic and noise, and/or noise from safety features on D&B forklifts, neither of which violate the Zoning Ordinance at issue in this case. Notwithstanding the foregoing, the neighbor will not stop objecting to D&B's presence in the industrial park until D&B ceases to exist or moves out of the industrial park.

20. The noise at issue in this case, whether created by D&B or someone else located in the industrial park, is not objectionable to an ordinary and reasonable person. The noises which lead to the Citations above are at the same level as noise levels we all make in our homes on a daily basis, only the noises allegedly made by D&B in this case are for much shorter durations.

21. Second, D&B's operations, to the extent required, all occur in enclosed buildings.

22. All of D&B's operations are conducted using large machinery – all of which is located inside D&B's enclosed buildings. D&B does not, and cannot, conduct its manufacturing operations outside because all of its equipment is located inside.

23. Therefore, contrary to the Zoning Notices, all manufacturing is conducted within an enclosed structure.

24. Outdoor storage of raw materials and products for light manufacturing on an IL zoned property is expressly permitted with proper screening by the Zoning Ordinance, and D&B has such screening.

25. Because the Zoning Ordinance allows for the storage of raw material and product outside, it is indisputably contemplated by the zoning code that materials will be moved inside for use and assembly for light manufacturing. Thus, doing so does not mean that the operations are not occurring in entirely enclosed buildings.

26. Further, light manufacturing is not the only permissible use of parcels of land zoned IL. Permissible uses of IL properties include, but are not limited to, boat and/or RV storage, car washes, gas stations, semi-truck and automobile major and minor service and repair shops, general industrial services, fulfillment centers, storage yards, wrecker services, and outdoor or indoor recycling centers. *See* Table 2-2-2-1, Allowed Uses.

27. All four (4) of the Zoning Violations issued to D&B say the same thing: “The manufacturing being performed is not conducted entirely within an enclosed structure and is producing objectionable noise and vibrations affecting neighboring properties therefore is in violation of the IL zoning district.”

28. However, D&B does not perform the same operations in all four (4) properties, and the record does not reflect which parcel had operations outside of an enclosed structure and/or which parcel created the alleged objectionable noise.

29. Furthermore, Zoning Notice ZON-025339-2025 / Citation 446453, relates to a parcel where D&B does not operate its manufacturing business. Rather, the foregoing parcel is strictly a storage yard. As set forth above, storage yards are expressly permitted on IL zoned properties. There is absolutely no evidence in the record to support a finding that noise was created at or on this parcel of land; however, the City nonetheless issued a citation relating to that parcel.⁵

30. D&B’s Plant 3 operations are located on an 11-acre tract of land that includes a 20,981 square foot building constructed in 1984, with a 3,500 office building built in 1994, and there is a 7-acre tract of land sharing a boundary with Plant 3 that is zoned Agricultural. D&B has

⁵ Upon information and belief, the City dismissed this citation after D&B notified the City of the use of this parcel. However, D&B’s use of this parcel information the City should have discovered and known prior to issuing D&B a citation.

a plant that is west of Plant 3 across S. 219th Street East Pl., is on 2.8 acres of land, and includes a 16,850 square foot building constructed in 1984.

31. As a result of complaints from someone who does not live in the City of Broken Arrow, the City has arbitrarily and capriciously applied the Zoning Ordinances to D&B in this matter in violation of state and local laws.

32. When D&B moved into Plants 1, 2 & 3, the properties were already zoned as Industrial Light. Further, D&B moved into Plants 1, 2 & 3 prior to the City amending the Zoning Code.

33. Pursuant to Chapter 7 of the Zoning Code, any alleged nonconforming use of the property by D&B is not a violation of the Zoning Code.

34. While it is D&B's burden to establish non-conforming use, prior versions of the Zoning Ordinances are not available online. However, D&B plans to present evidence and argument of non-conforming use at the time of the hearing on this Notice of Appeal.

35. Although D&B was at all times compliant with the Zoning Ordinance at issue in this case, it nonetheless took numerous remedial measures in an attempt to be a good neighbor and pacify the complainant. In doing so, it exceeded that which was required by the Zoning Notices for compliance.

36. The remedial measures taken by D&B include, but are not limited to, the following:
- a. Moving all materials from the east side of its building to the west side of the building to reduce forklift and other noises created by the movement of materials into D&B's building;
 - b. Moving scrap metal containers for recycling from the east side of its building to the west side to reduce noise caused by placing scrap metal into said containers;

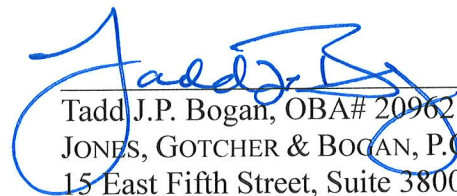
- c. Prohibiting the playing of music at all times;
- d. Prohibiting the dumping of scrap materials for recycling at night;
- e. Limiting the use of forklifts at night and modifying the safety indicators thereon;
- f. Limiting the time(s) when overhead doors may be opened to only allow them to be open when materials are being moved in and out of the building;
- g. Purchasing a water truck to reduce dust from graveled surfaces (although not part of the Zoning Notices);
- h. Turned equipment fan duct from facing east to south;
- i. Continuous monitoring of noise levels using a decibel reader;
- j. Leasing a yard outside of the industrial park to store loaded trailers to reduce semi-truck traffic and noise in the industrial park;
- k. Changing the way that it loads I-Beams to reduce noise caused by the way the beams were previously loaded;
- l. Purchasing product that will be applied to gravel surfaces to further eliminate dust from the same during high winds (although not part of the Zoning Notices); and
- m. On April 20, 2026, the City of Broken Arrow approved plans for D&B to construct 760' long, 10' tall, and 6" thick concrete sound barrier wall along the property line between 21900 E. 96th Street and the neighboring property zoned Agricultural General District and the property beyond that, zoned Agricultural General District RS2.1. The wall will be constructed at a cost of approximately \$300,000 if D&B is not able to find a suitable replacement property outside the City of Broken Arrow where it can relocate its operations.

37. D&B is currently in the process of trying to find a location outside the City of Broken Arrow where it can relocate its operations. However, it is difficult to find a facility suitable for 101 employees and which is large enough to house operations that are currently housed in 3 plants, a storage yard, and a trailer yard (which although outside of the industrial park, will also need to be relocated).

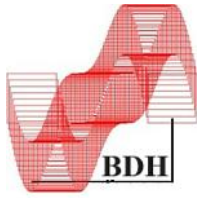
38. D&B is not relocating because it concedes that it cannot comply with the Zoning Ordinance, as set forth above, D&B is in compliance with the Zoning Ordinance. Rather, D&B is seeking to relocate its business outside the City of Broken Arrow due to the arbitrary and capricious actions by the City to appease a non-resident – rather than simply applying the law impartially and informing the neighbor that D&B's operations comply with the Zoning Ordinance and that the noises she is recording are not objectionable to a reasonable person.

WHEREFORE, premises considered, D&B Processing, LLC hereby appeals the above-referenced Zoning Notices/Citations, and requests that the same be overturned due to D&B's compliance with the applicable Zoning Ordinance.

Respectfully submitted,



Tadd J.P. Bogan, OBA# 20962
JONES, GOTCHER & BOGAN, P.C.
15 East Fifth Street, Suite 3800
Tulsa, Oklahoma 74103
Telephone: (918)581-8200
E-Mail: tbogan@jgbok.com
Attorney for D&B Processing, LLC



B.D. Haiduk Acoustics, LLC
6119 E 18th St, Tulsa, OK 74112
Cell: (918) 845-7589
Email: brucehaiduk@gmail.com

July 23, 2026

Doug Burgess
D&B Processing LLC
9750 S 219th East Ave
Broken Arrow, OK 74014

Subject: Noise Assessment – D&B Processing

Dear Mr. Burgess,

This letter report provides information on noise being generated by D&B Processing LLC in Broken Arrow and the steps being taken to mitigate it. Sound level measurements were made at the property line of a nearby house at the point closest to the plant using a Larson Davis 831 Type I Precision Sound Level Meter and ½ inch microphone. Three five-minute samples were taken: one on July 15th, 2026 at 9:15 pm, and two on July 16th, 2026 at 2:55 pm and 3:00 pm.

The following graphs show the recorded sound levels in decibels (dBA). Sound level spikes from sources OTHER than the plant have been noted.

Figure I: Sound Levels Recorded, 7/15/26, 9:15-9:20 pm

Time History

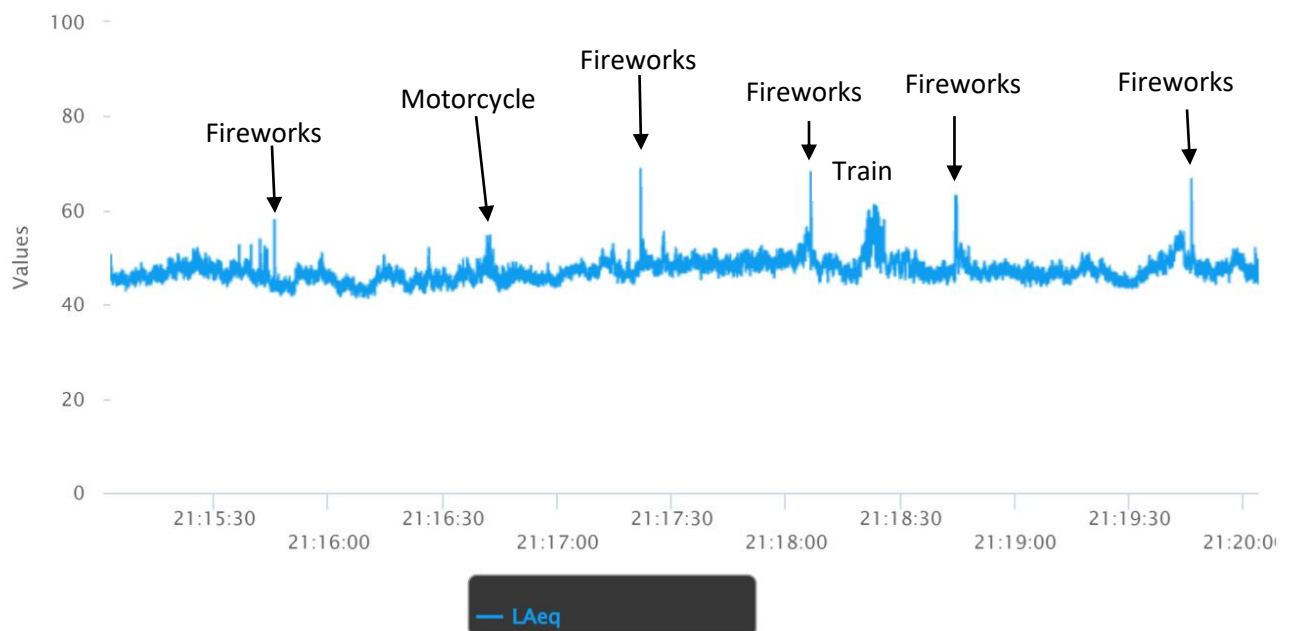


Figure II: Sound Levels Recorded, 7/16/26, 2:55-3:00 pm

Time History

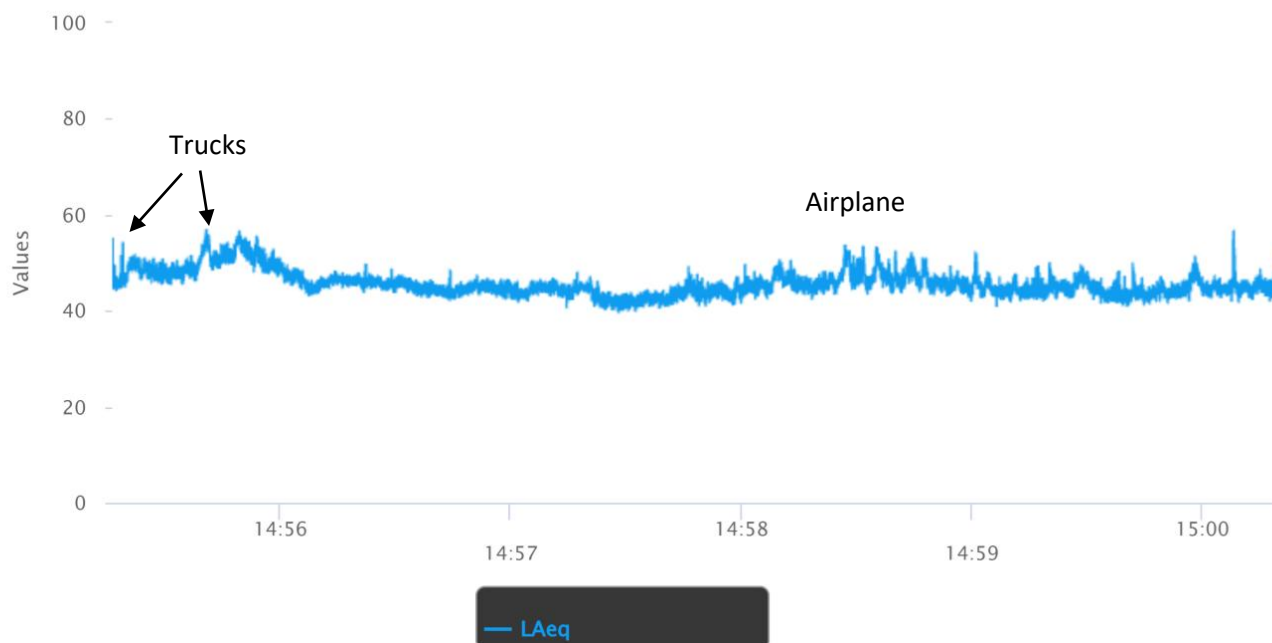
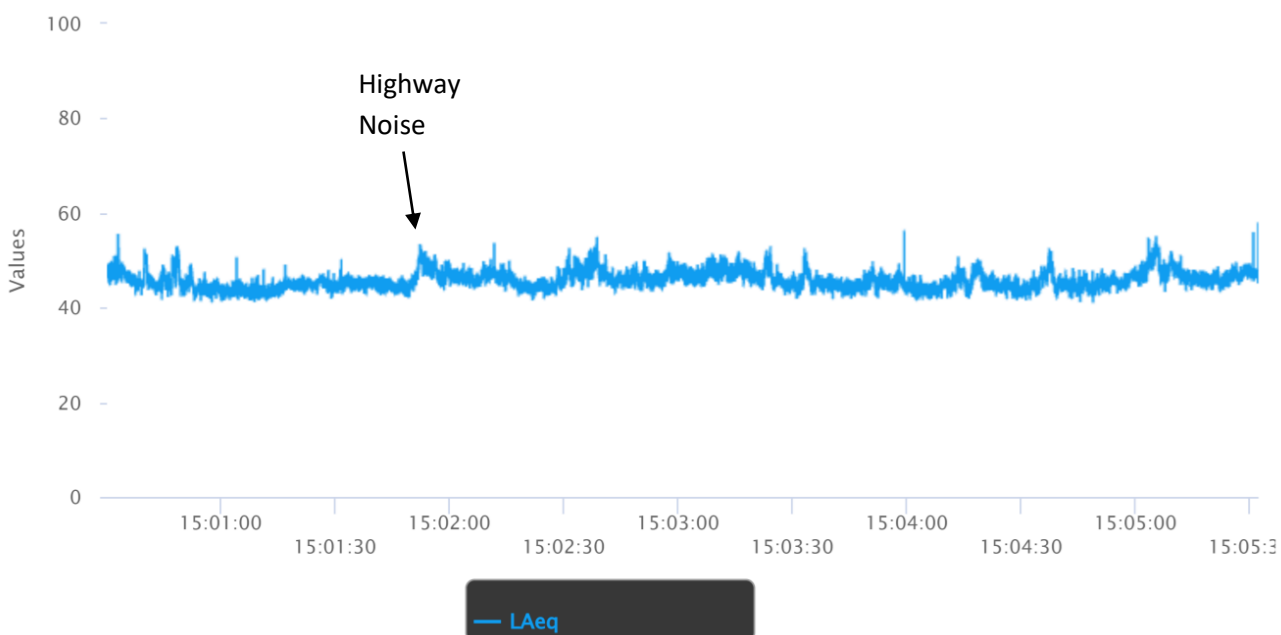


Figure III: Sound Levels Recorded, 7/16/26, 3:00-3:05 pm

Time History



The EPA recommends an average outdoor level of 55 dBA over time to prevent “activity interference and annoyance.” The noise generated by the plant rarely exceeds this, and when it does, it does so only briefly and by only 1-2 dBA. Therefore, the total noise generated by the plant is, in itself, of no concern. However, what could be potentially considered bothersome is noise level spikes above the ambient, and there are a few points of concern in this regard.

Plant Noise vs. Ambient Noise

The following two graphs highlight two data points of particular concern: the first at 3:00:08 pm and the second at 3:03:59 pm, both on the afternoon of the 16th.

Figure IV: Sound Level Spike, 7/16/26, 3:00:08 pm

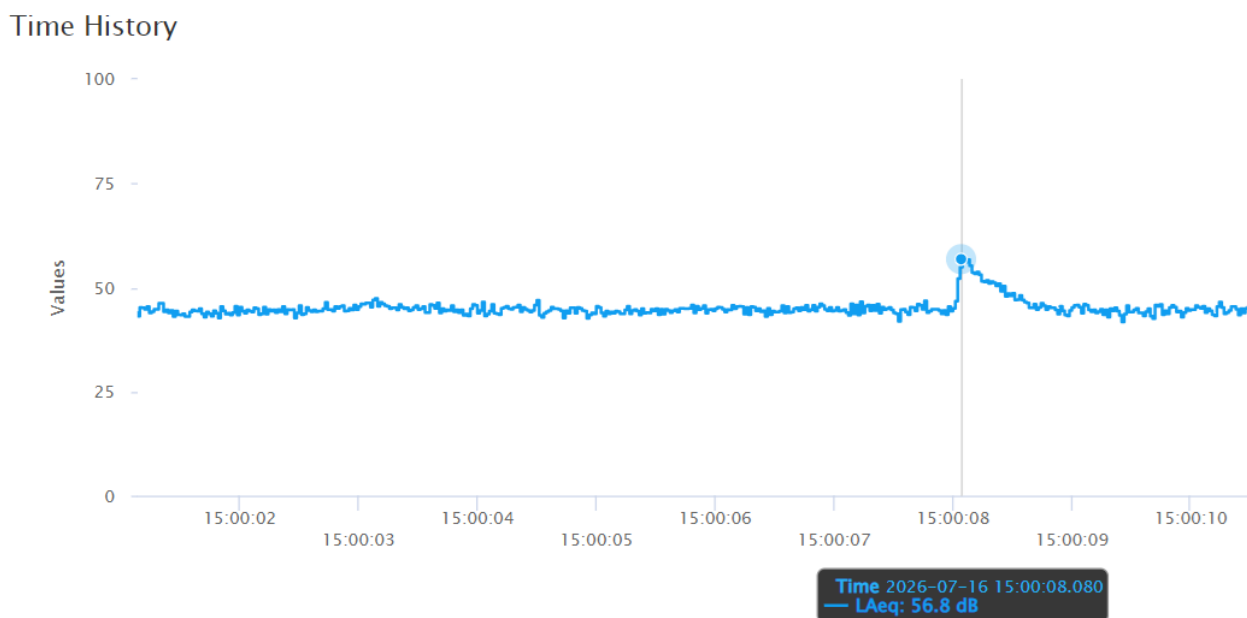
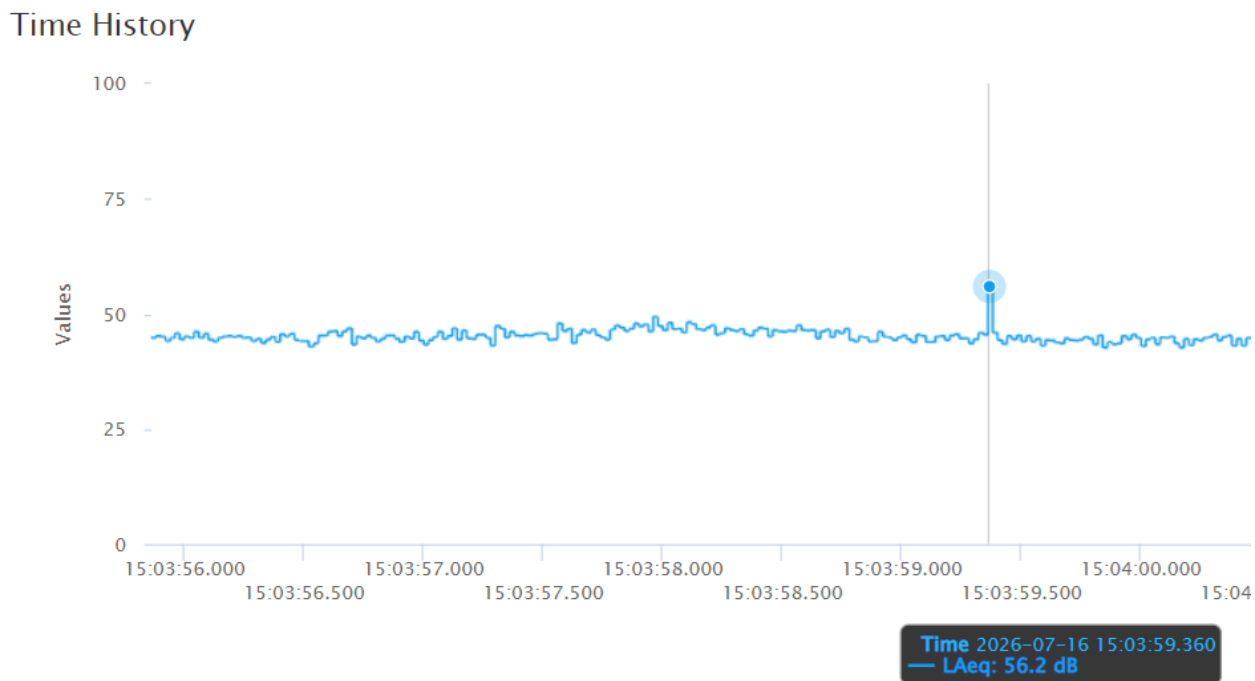


Figure V: Sound Level Spike, 7/16/26, 3:03:59 pm



These noises were recorded at 56.8 dBA and 56.2 dBA, respectively, or 11-12 decibels above the ambient of 45 dBA that was recorded at the house's property line. These were the two worst spikes seen across all three sessions. I was present on the property for approximately half an hour each day, and I did not observe noise levels beyond those recorded and included here.

To get an idea of how spikes like this are perceived, the following chart provides insight into how source noise levels *exceeding* ambient noise levels can affect reactions of people living, working, or performing other activity within hearing range of the noise source.

Table I: Reactions to Noise Levels

Categories Encroaching Noise Level Exceeding Ambient Level by:	Reaction by Persons Living in Houses, Working Indoors, Enjoying Parks and Other Activities.
Zero to 5 dBA	A few complaints from locations nearest to the noise source.
5 dBA to 10 dBA	Many complaints from neighbors, local groups such as home-owners associations, some calls to the police.
10 dBA to 15 dBA	Complaints from distant places, many calls to the police, threats of hiring attorneys. warning of shutting noise source down.
15 dBA to 20 dBA	Working with attorneys in process, visits by the sheriff warning of shutting down the noise source.
20 dBA or higher	Shutdown of the noise source by the sheriff.

This approach to predicting actions taken by persons or organizations concerning noise is not new or unusual. Dr. John Shadley's first knowledge of it was a talk presented around 1972 to acoustical engineers at the company Bolt Beranek and Newman. Using this guide, with some additions or modifications over the years, he has found it to remain the best approach for predicting reactions to noise.

As it stands now, these sound level spikes are in the third category, but there are two things to bear in mind: first, even this far above the ambient, 56 decibels is approximately equivalent to the volume of a soft conversation; and second, the effect is significantly reduced behind closed doors and windows. Furthermore, steps can be taken to mitigate the bothersome noise.

Steps to Mitigate Sound

The 8-foot-high wall currently under construction 15 feet from the property line will reduce the incoming sound by an *estimated* 8.9 decibels at the property line, and by an *estimated*

5.9 decibels at the front door of the house. This already brings the maximum sound level spikes into the lower end of the second category.

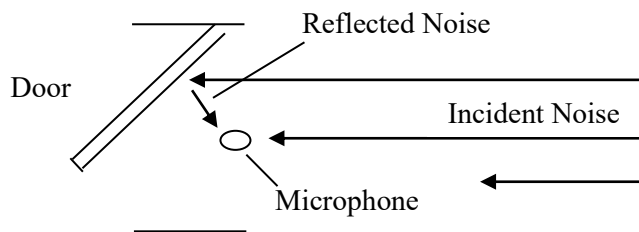
In addition, I highly recommend the company purchase soundproof window inserts from Soundproof Windows, Inc. for the houses. They have been shown to reduce noise levels by 75-95%, and they are placed behind existing windows, so there is no need to replace or remove them. You can get more information at soundproofwindows.com.

Between these two measures, the noise level should be reduced to a point well below that which can reasonably be considered bothersome.

Observed Outside Measurements

The owner of the house which issued the complaint has been observed via video to be taking video and sound recordings of the plant. Whenever he does, it has been observed that he does so with a door propped open directly behind him. This results in his microphone recording the incident noise *combined* with its reflection from the door, as illustrated in Figure VI:

Figure VI: Combined Incident and Reflected Noise



When both of these combine, it results in a *higher* recorded sound level than is actually being produced; these readings are therefore inaccurate and should be disregarded.

Sincerely,

Bruce Haiduk
BD Haiduk Acoustics, LLC



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STATE UNIVERSITY

Summer 2026

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A resident of Broken Arrow addresses Notes Live and city officials during a forum Tuesday at NSU-Broken Arrow.

Residents sound off on Broken Arrow amphitheater project

By John Dobberstein, Editor

After many months of announcements and fanfare, residents living in the vicinity of the proposed Sunset Amphitheater in Broken Arrow had their chance Wednesday to ask questions and state any concerns about the \$71.5 million project.

About 120 people came to the hearing hosted by Colorado Springs-based entertainment company Notes Live, the project's developer. As expected, many people living within a mile or two of the amphitheater site – on 15 undeveloped acres just north of the Broken Arrow Events Park – have concerns about traffic and noise.

Some have lived in the city for decades and grown used to the quiet, suburban life in in southeast Broken Arrow, which they believe could be threatened by an amphitheater that has a capacity of 12,500 and will require more than 2,000 parking spaces to serve 45 to 60 shows a year.

Pam Schultz, whose family owns land adjacent to the industrial park that is directly east of the development site, said her family has been in the area since 1940 and she is concerned about the venue contributing to an already active area with an elementary school, industrial park and the Challenger Sports Complex.





Broken Arrow City Manager Michael Spurgeon (left) and Robert Mudd, vice president of real estate and development for Notes Live, answer questions Tuesday about the Sunset Amphitheater project.

“We’re not against Broken Arrow having an amphitheater at all. We just aren’t wanting one near our homes or our schools,” Schultz said. “We have the industrial park and we now have the sports complex and we now have the event center and now maybe the amphitheater. And for those places our family has been inconvenienced.”

“When the Josh Turner concert was here we could have sit out in our yards and we could have heard the whole concert. So if we can hear that, we know for sure we’re going to hear everything that comes from the amphitheater.”

A woman who lives near the site said she was pleased the amphitheater was coming. She hasn’t found the traffic for Scotfest is any worse than traffic for school letting out, which she said is “getting worse every day. We hear so much negative all the time. I’ve heard negative about the Rose District, New Orleans Square, and people said, ‘Well, I don’t want to go to the Rose District. I don’t know why they even did that.’”

“Well, if you don’t do these things we’re never going to grow. And if I can hear the music from the amphitheater, maybe I don’t have the money to go to Eric Church that day or maybe I don’t go. But if I can sit in my yard and hear

Eric Church sing, I'd be happy as a clam."

Former Broken Arrow Mayor and City Councilman Mike Lester addressed some concerns that the venue would hurt property values. "I've been in real estate for 40 years, and never one time has anybody's property values gone down with anything this city's done, that I've been involved in.

"The city has built apartments. The Creek Turnpike was before the Planning Commission and everybody came to those meetings hollering about how their property values are going to be lowered. I would dare say there's not a person in south Broken Arrow that does not depend on the Creek Turnpike every day.

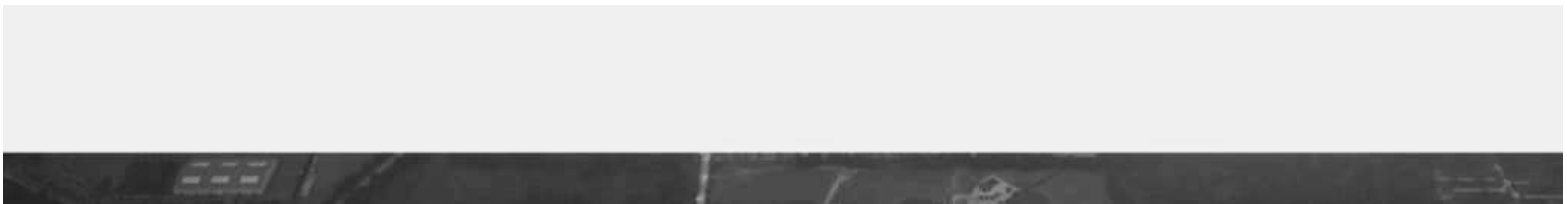
"We're a changing community. We're a growing community. I got backlash from people I grew up with because we're changing downtown Broken Arrow and look at it now."

Robert Mudd, senior vice president of real estate and development at Notes Live, said initial site plans, including a traffic and parking analysis and a detailed acoustic study, have been submitted to the city and will be presented during the Feb. 8 Broken Arrow Planning Commission meeting.

Planning Commission members and the public will have the opportunity to ask questions before the Commission considers recommending approval of the plans or asks for changes to be made.

If the project moves beyond the Planning Commission with a recommendation, the City Council will likely consider final plan approval in late February or March. The amphitheater could be open as soon as late summer 2025 if plans proceed as normal, Mudd said.

Mudd shared details about the acoustic study and site construction as it relates to potential noise issues.





A rendering of the proposed \$71.5 million Sunset Amphitheater in Broken Arrow and the surrounding area parcels. The Creek Turnpike is in the foreground.

Two months ago Notes Live opted to move the amphitheater site further north rather to mitigate low decibels and reduce the impact to the neighborhoods to the south below 55 decibels. They also shifted the direction of the stage to the northeast, where there are fewer homes potentially affected.

Facilities related to concessions, restrooms and security are being located in the northeast and southwest corners of the site to serve as an additional sound barrier.

Mudd said that from the base of the stage to the back of the concourse the elevation is 45 feet, which he believes will provide “substantial” acoustic dampening.

Mudd noted there would be poles with speakers about two-thirds of the way back in the venue with speakers that

direct sound to the attendees, “without having to force all the volume from the stage.”

Mudd also mentioned Notes Live will be implementing noise detection technology in the residential areas to the south, northwest and west. “That will allow our person at the front of house to know what sound is actually being experienced in the residential areas, which will enact operational controls,” he said.

“The sound hitting the closest residential area at its highest level would be 56 decibels. So being inside of a Walmart or frankly the same sound that you might hear from the turnpike would be the equivalent of the level of sound that would be experienced in the residential areas.”

When noise coming from Scotfest was mentioned as a potential harbinger of things to come, but Mudd said that situation is different because there are no sound barriers or noise mitigation technology.

“That’s going to be a very different scenario than what we are committed to building here, with technology that is used very frequently in urban environments where there’s a lot more dense residential areas,” Mudd said. “I understand your concerns and I understand this plan is on paper, it’s not in reality. But we’ve made a significant investment to make sure that we are positioning and constructing this in a way that maximizes the noise containment and minimizes the impact to the community around it.”

There were many questions about traffic flow as well. City officials are working with the railroad company, state of Oklahoma and many other entities to reconfigure the infrastructure around the site.

The city said upgrades are planned for internal roads at Events Park, Gary Street, New Orleans Street, and a roadway connection to Highway 51 and 91st Street.

The city has negotiated an agreement with Northeastern State University to lease about 1,000 of their parking spots in the evenings for overflow parking during concerts. Mudd estimates about 30% of event attendees will be dropped off or take rideshares.

Others expressed concerns about the proximity of Rosewood Elementary and the safety of students and employees with that many people coming and going. Mudd said sound checks will not happen any sooner than 2 p.m. and shows are being ordered to finish by 10:30 p.m., with the venue being emptied within 40 minutes. The concert schedule, as it stands now, is April through October, Mudd said.

“We’re going to coordinate with the school district and we’ll have the schedule a year out. So for parent-teacher conferences and events I’ll be in a position that I can talk to the superintendent and his team to about the event dates

to make sure that there isn't any conflict," he said.

As for security, Mudd said a 20-by-30-foot police substation will be built at the venue in addition to the emergency response facilities being planned. Notes Live projects to have one security officer for every 250 people. "We do not allow tailgating in the parking areas. It's just a problem. So we don't do it," he noted.

Mudd also went into some of the reasons Broken Arrow was chosen over Tulsa. He noted that artists who perform in Colorado often go to Houston, Kansas City, Denver or other places and drive right past markets like Tulsa that are underserved.

"We went and looked at many sites in Tulsa, but we have a very specific set of criteria when we look at a location for an amphitheater and we just couldn't put our finger on the right place. So we began to broaden our reach a little bit," he said, adding that Notes Live expects 25% of the tickets to the A-list shows here will be sold to people out of state, whether it's northern Texas, Missouri or Arkansas.

"When you begin to look at the site, it checks all of the boxes. We just simply won't go somewhere that we don't feel like it's we're going to be viewed as an asset over the long haul."

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It was a great turnout Saturday, Dec. 2 for the Broken Arrow Civitans Christmas Parade in the Rose District. <https://www.youtube.com/watch?v=t5O1J6GnuOI>

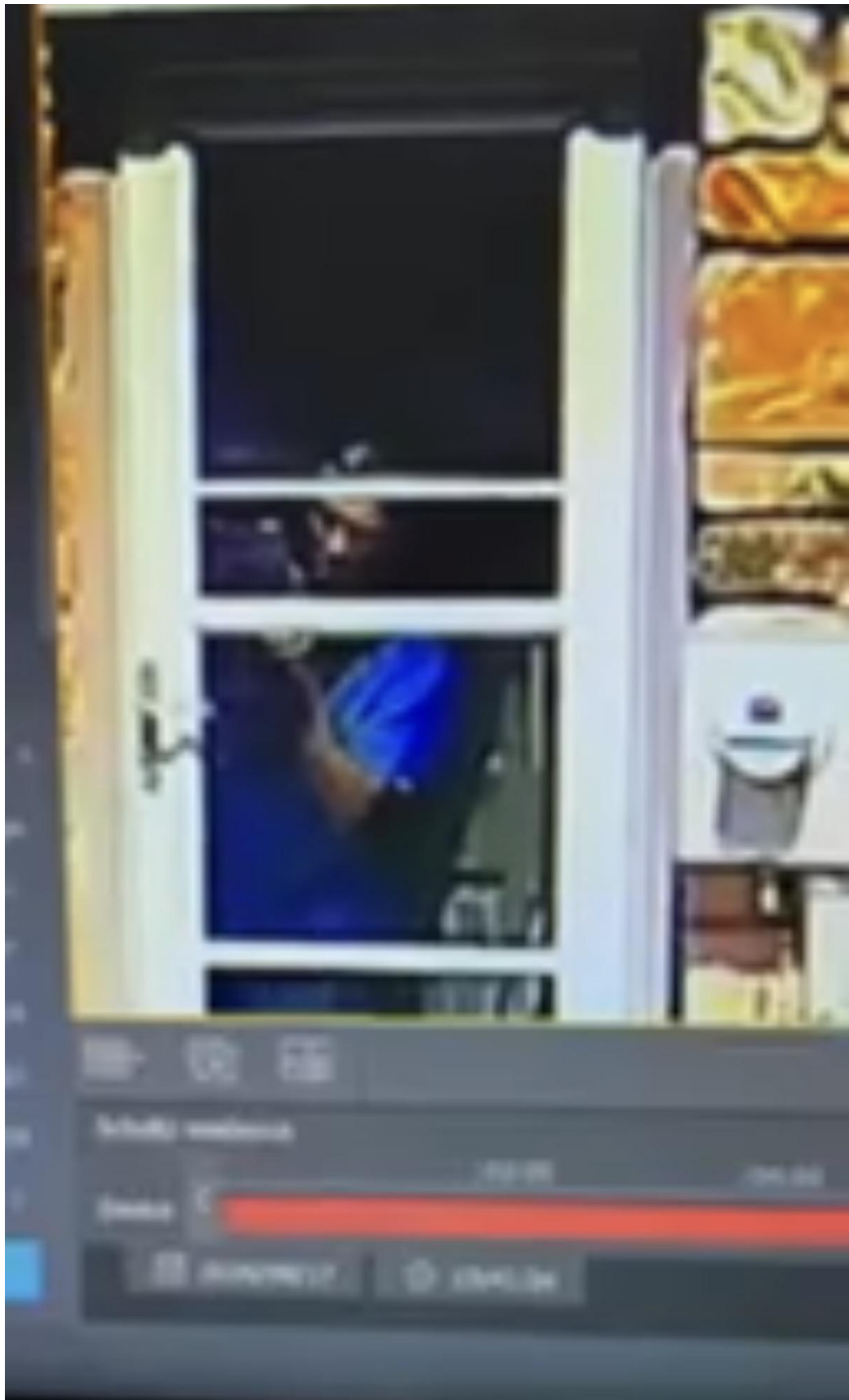


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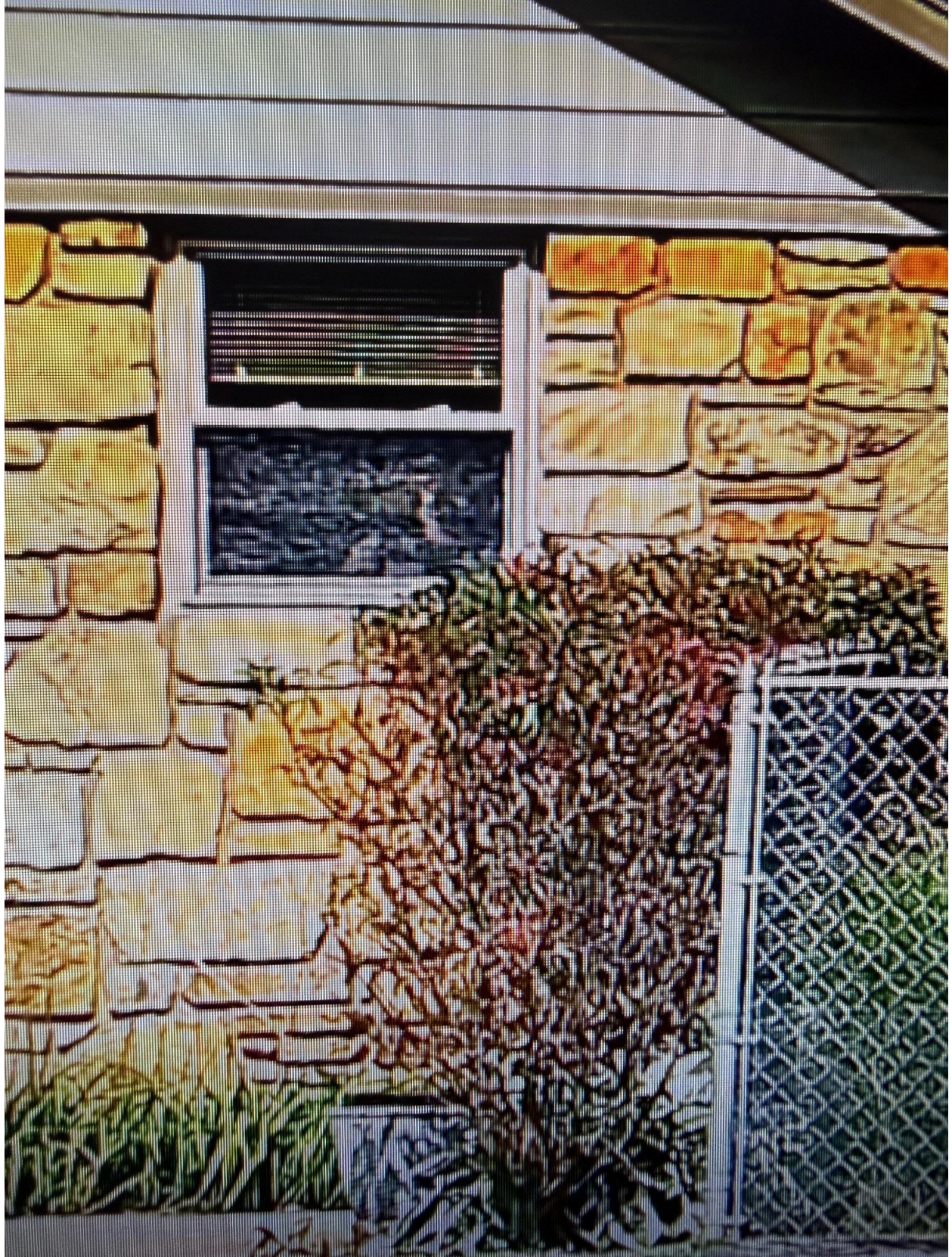


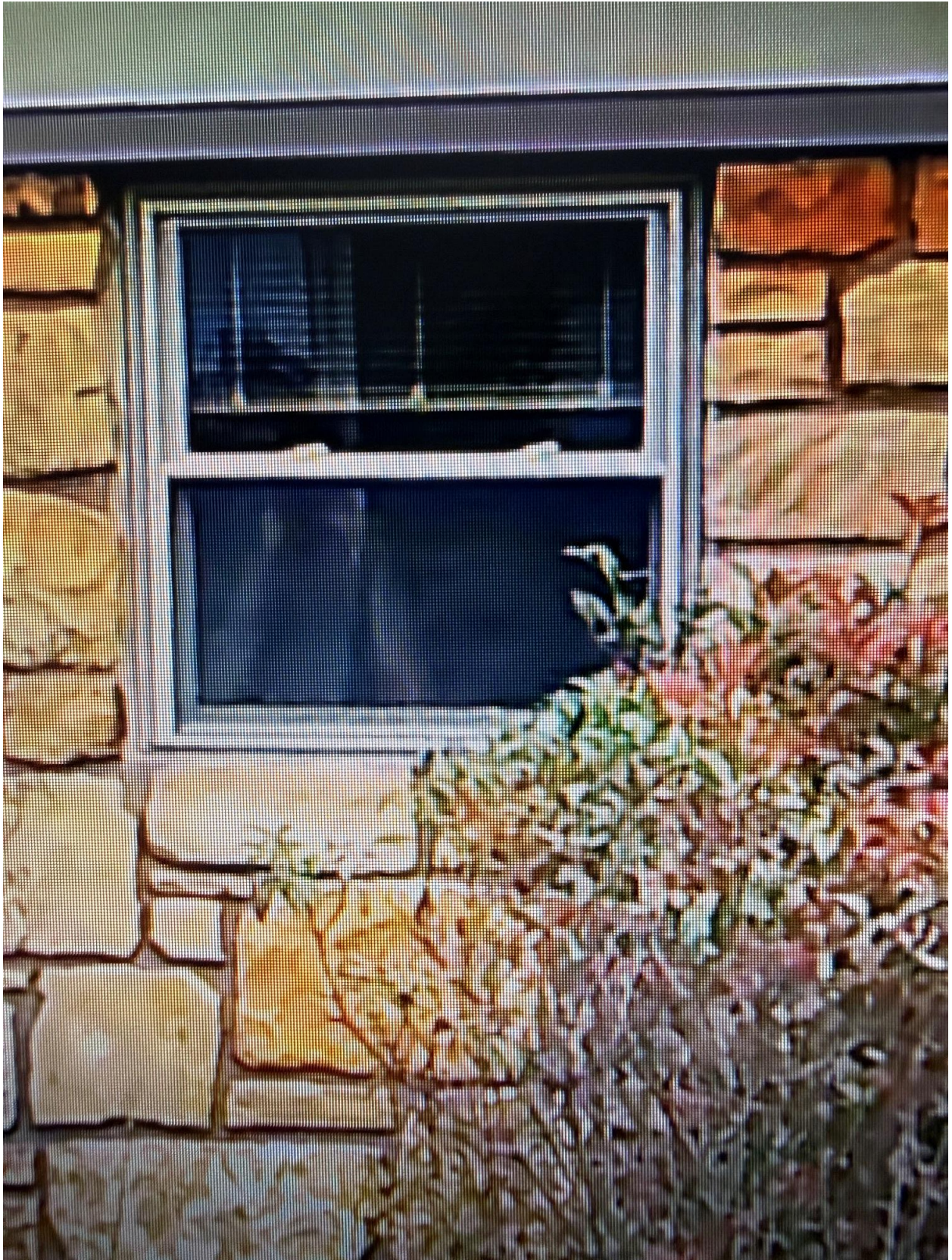
















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