

PUD 199
Preliminary Plat

121 Elm

OWNER / DEVELOPER

Stone Horse Development, L.L.C.
an Oklahoma Limited Liability Company
C/O Pete Kourits
P.O. Box 240
Owasso, Oklahoma 74055
918.272.3282

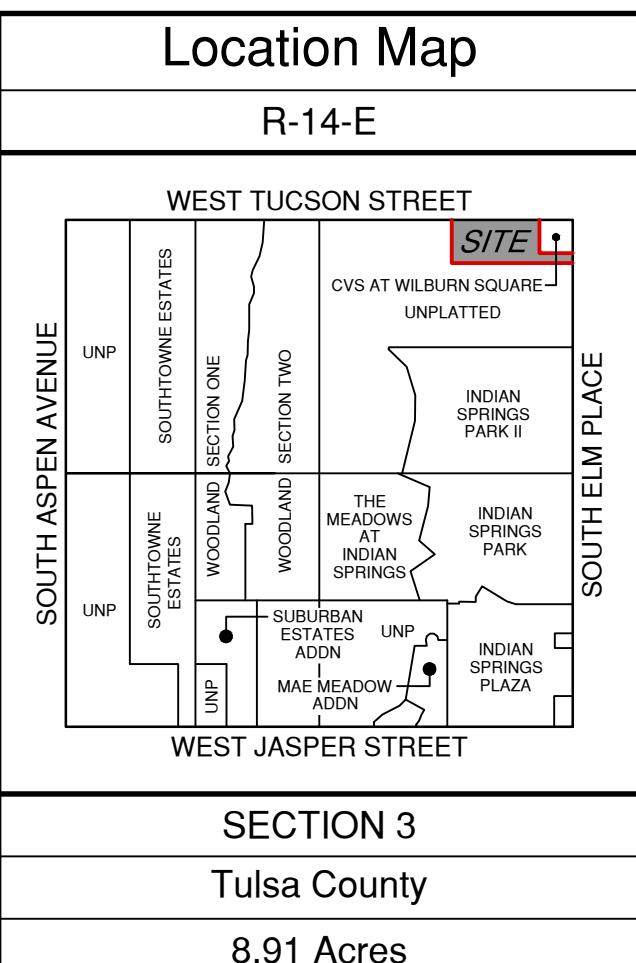
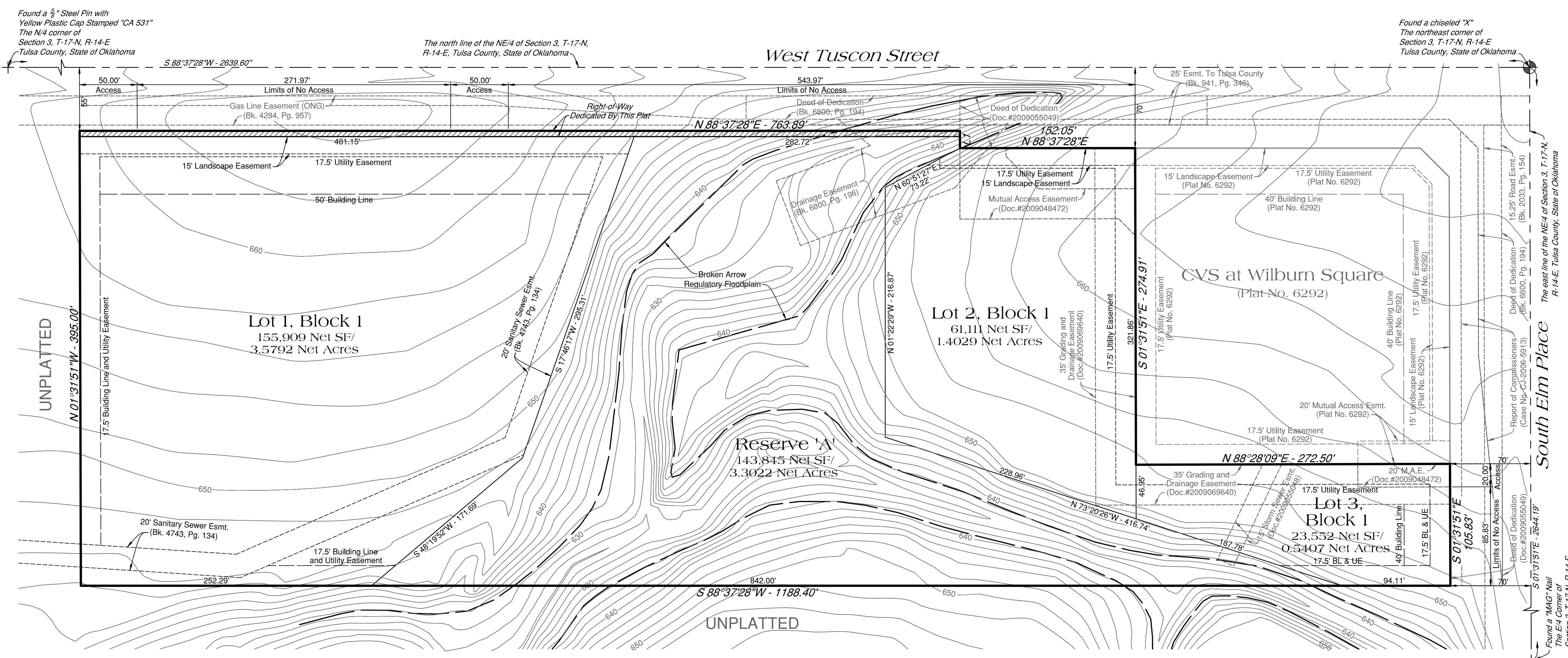
A subdivision in the City of Broken Arrow, being a part of the
NE/4 of Section 3, Township 17 North, Range 14 East,
of the Indian Meridian, Tulsa County, State of Oklahoma

ENGINEER / SURVEYOR

Tulsa Engineering & Planning Associates, Inc.
an Oklahoma corporation
9820 East 41st Street South, Suite 102
Tulsa, Oklahoma 74146
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JPatMurphy@tulsaengineering.com
CERTIFICATE OF AUTHORIZATION NO. 531
RENEWAL DATE: JUNE 30, 2017



50' 25' 0 50' 100' 150'
SCALE IN FEET: 1" = 50'



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17
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**DEED OF DEDICATION
AND
RESTRICTIVE COVENANTS
FOR
121 ELM**

KNOW ALL MEN BY THESE PRESENTS:

THAT Stone Horse Development, LLC, an Oklahoma limited liability company, hereinafter referred to as the "Owner/Developer" is the owner of the following described real estate situated in the City of Broken Arrow, Tulsa County, State of Oklahoma, to wit:

A tract of land located in the NE/4 of Section 3, T-17-N, R-14-E of the Indian Meridian, Tulsa County, State of Oklahoma, according to the Official U.S. Government Survey thereof, more particularly described as follows:

Commencing at the northeast corner of the NE/4 of Section 3, T-17-N, R-14-E; Thence S 01°31'51" E along the east line of said NE/4 a distance of 343.98 feet to the southeast corner of "CVS at Wilburn Square", a subdivision in the City of Broken Arrow, Tulsa County, State of Oklahoma, according to the official recorded plat thereof, Plat No. 6292, as filed in the records of the Tulsa County Clerk's office; thence S 88°28'09" W and along the southerly line of said "CVS at Wilburn Square" a distance of 70.00 feet to westerly right of way of South Elm Place, and the "Point of Beginning", said right of way recorded as Doc. # 2009055049 in the Tulsa County Clerk's office;

Thence S 01°31'51" E along the westerly right of way of South Elm Place a distance 105.83 feet to a point 450.00 feet south of the north line of the NE/4 of Section 3, said 450.00 feet being measured perpendicularly to the north line of the NE/4; Thence S 88°37'28" W and parallel with the north line of the NE/4 a distance of 1188.40 feet to a point 1258.40 feet west of the east line of the NE/4 of Section 3, said 1258.40 feet being measured perpendicularly to the east line of the NE/4; Thence N 01°31'51" W and parallel with the east line of the NE/4 a distance of 395.00 feet to the southerly right of way of West Tucson Street, said right of way recorded as Doc. # 2013037744 in the Tulsa County Clerk's office; thence N 88°37'28" E along the southerly right of way of West Tucson Street a distance of 763.89 feet to the southerly right of way of West Tucson Street, recorded as Doc. # 2009055049 in the Tulsa County Clerk's office; Thence S 01°23'32" E along right of way a distance of 15.00 feet; Thence N 88°37'28" E continuing along said right of way a distance of 152.05 feet to the westerly line of said "CVS at Wilburn Square"; thence S 01°31'51" E along said westerly line a distance of 274.91 feet to the southerly line of said "CVS at Wilburn Square"; thence N 88°28'09" E along said southerly line a distance of 272.50 feet to the "Point of Beginning".

Said tract contains 388,240 square feet or 8.9128 acres.

The non-astronomic bearings for said tract are based on an assumed bearing of N 88°37'28" E along the north line of the NE/4 of Section 3, T-17-N, R-14-E, Tulsa County, State of Oklahoma, according to the official U.S. Government Survey thereof.

Owner/Developer has caused the above described lands to be surveyed, staked, platted and subdivided into three lots and one block in conformity with the accompanying plat, and has designated the subdivision as "121 ELM", a subdivision in the City of Broken Arrow, Tulsa County, State of Oklahoma.

SECTION I. STREETS, EASEMENTS AND UTILITIES

1.1 Public Streets and General Utility Easements

The Owner/Developer does hereby dedicate for public use the street (West Tucson Street) as depicted on the accompanying plat, and does further dedicate for public use the utility easements as depicted on the accompanying plat as "Utility Easement" or "U/E", for the several purposes of constructing, maintaining, operating, repairing, replacing, and/or removing any and all public utilities, including storm sewers, sanitary sewers, telephone and communication lines, electric power lines and transformers, gas lines, water lines and cable television lines, together with all fittings, including the poles, wires, conduits, pipes, valves, meters and equipment for each of such facilities and any other appurtenances thereto, with the rights of ingress and egress to and upon the utility easements for the uses and purposes aforesaid, provided however, the Owner/Developer hereby reserves the right to construct, maintain, operate, lay and re-lay water lines and sewer lines, together with the right of ingress and egress for such construction, maintenance, operation, laying and re-laying over, across and along the public street and the utility easements depicted on the plat, for the purpose of furnishing water and/or sewer services to the area included in the plat. The Owner/Developer herein imposes a restrictive covenant, which covenant shall be binding on the Owner/Developer and shall be enforceable by the City of Broken Arrow, Oklahoma, and by the supplier of any affected utility service, that within the utility easements depicted on the accompanying plat no building, structure or other above or below ground obstruction shall be placed, erected, installed or maintained, provided however, nothing herein shall be deemed to prohibit drives, parking areas, curbing and landscaping or other similar improvements that do not constitute an obstruction.

1.2 Underground Service

1.2.1 Overhead poles may be located along the northerly and easterly perimeter of the subdivision as necessary if located in utility easements for the purpose of the supply of underground service. Street light poles or standards may be served by underground cable, and except as provided in the immediately preceding sentence, all electric and communication supply lines shall be located underground, in the easement-ways reserved for general utility services and streets, shown on the attached plat. The owner does hereby restrict the utility easements shown and designated on the accompanying plat to a single supplier of electrical service.

1.2.2 All supply lines in the subdivision including electric, telephone, cable television and gas lines shall be located underground in the easements reserved for general utility services and streets shown on the plat of the subdivision. Service pedestals and transformers, as sources of supply at secondary voltages, may also be located in said easements.

1.2.3. Underground service cables and gas service lines to all structures which may be located on all lots in the subdivision may be run from the nearest gas main, service pedestal or transformer to the point of usage determined by the location and construction of such structure as may be located upon each said lot; provided that upon the installation of such a service cable or gas service line to a particular structure, the supplier of service shall thereafter be deemed to have a definitive, permanent, and effective right-of-way easement on said lot, covering a five-foot strip extending 2.5 feet on each side of such service cable or line, extending from the service pedestal, transformer or gas main to the service entrance on the structure or a point of metering.

1.2.4 The supplier of electric, telephone, cable television and gas services, through its authorized agents and employees, shall at all times have right of access to all such easements shown on the plat to the subdivision or provided for in this deed of dedication for the purpose of installing, maintaining, removing or replacing any portion of the underground electric, telephone, cable television or gas service facilities so installed by it. The supplier of electric, telephone, cable television also reserve the perpetual right, privilege and authority to cut down, trim, or treat any trees and undergrowth on said easement.

1.2.5 The owner of each lot in the subdivision shall be responsible for the protection of the underground electric facilities located on his property and shall prevent the alteration of grade or any construction activity which may interfere with said electric, telephone, cable television or gas facilities. The supplier of service will be responsible for ordinary maintenance of underground facilities, but the owner of each lot in the subdivision will pay for damage or relocation of such facilities caused or necessitated by acts of such owner or his agents or contractors. The foregoing covenants concerning underground facilities shall be enforceable by the supplier of electric, telephone, cable television or gas service.

1.3 Water and Sewer Service

1.3.1 The owner of the lot shall be responsible for the protection of the public water and sewer mains located on his lot.

1.3.2 Within the depicted utility easement area, if the ground elevations are altered from the contours existing upon the completion of the installation of a public water or sewer main, all ground level apertures, to include: valve boxes, fire hydrants and manholes will be adjusted to the new grade by the owner or at the owner's expense.

1.3.3 The City of Broken Arrow, Oklahoma, or its successors, shall be responsible for ordinary maintenance of public water and sewer mains, but the owner shall pay for damage or relocation of such facilities caused or necessitated by acts of the owner, his agents or contractors.

1.3.4 The City of Broken Arrow, Oklahoma, or its successors, shall at all times have right of access to all easementways depicted on the accompanying plat, or otherwise provided for in this Deed of Dedication, for the purpose of installing, maintaining, removing or replacing any portion of underground water or sewer facilities.

1.3.5 The foregoing covenants set forth in this subsection 1.3 shall be enforceable by the City of Broken Arrow, Oklahoma, or its successors, and the owner of the lot agrees to be bound hereby.

1.4 Surface Drainage

The lot shall receive and drain, in an unobstructed manner, the storm and surface waters from drainage areas of higher elevation and from public streets and easements. The lot owner shall not construct or permit to be constructed any fencing or other obstructions which would impair the drainage of storm and surface waters over and across the lot. The foregoing covenants set forth in this paragraph 1.4 shall be enforceable by any affected lot owner and by the City of Broken Arrow, Oklahoma.

1.5 Paving and Landscaping Within Easements

The owner of the lot shall be responsible for repair of damage to the landscaping and paving occasioned by the necessary installation of, or maintenance to, the underground water, sewer, storm water, gas, communication, cable television, or electric facilities within the easements depicted on the accompanying plat, provided however, that the City of Broken Arrow or the supplier of the utility service shall use reasonable care in the performance of such activities.

1.6 Limits of No Access

The undersigned Owner/Developer hereby relinquishes rights of vehicular ingress or egress from any portion of the property adjacent to West Tucson Street and South Elm Place within the bounds designated as "Limits of No Access" (L.N.A.) on the Plat, which "Limits of No Access" may be amended or released by the Broken Arrow Planning Commission, or its successor, and with the approval of the City of Broken Arrow, Oklahoma, or as otherwise provided by the statutes and laws of the State of Oklahoma pertaining thereto, and the limits of no access above established shall be enforceable by the City of Broken Arrow, Oklahoma.

SECTION II. RESERVE AREA

2.1 Reserve Area "A"

2.1.1 Reserve Area "A" shall be used for open space, signage, landscaping, walls, fencing, drainage, overland drainage, stormwater drainage, utilities, and ingress and egress.

2.1.2 Sidewalks along the West Tucson Street frontage shall be installed by the Owner/Developer.

2.1.3 All costs and expenses associated with Reserve "A", including maintenance of various improvements will be the responsibility of the Property Owners' Association.

SECTION III. PLANNED UNIT DEVELOPMENT RESTRICTIONS

WHEREAS, "121 ELM" was submitted as a planned unit development (entitled PUD No. 199) as provided within Section 6.4 of the Zoning Ordinance of the City of Broken Arrow, Oklahoma (Ordinance No. 2931) as amended and existing on March 17, 2009 (hereinafter the "Broken Arrow Zoning Ordinance"), which PUD No. 199 was approved by the Broken Arrow Planning Commission on March 12, 2009 and approved by the City of Broken Arrow City Council, on March 17, 2009; and

WHEREAS, the planned unit development provisions of the Broken Arrow Zoning Ordinance require the establishment of covenants of record, inuring to and enforceable by the City of Broken Arrow, Oklahoma, sufficient to assure the implementation and continued compliance with the approved planned unit development; and

WHEREAS, the Owner/Developer desires to establish restrictions for the purpose of providing for an orderly development and to ensure adequate restrictions for the mutual benefit of the Owner/Developer, its successors and assigns, and the City of Broken Arrow, Oklahoma;

THEREFORE, the Owner/Developer does hereby impose the following restrictions and covenants which shall be covenants running with the land and shall be binding upon the Owner/Developer, its successors and assigns, and shall be enforceable as hereinafter set forth:

The development of "121 ELM" shall be subject to the Planned Unit Development provisions of the Broken Arrow Zoning Code as such provisions existed on March 17, 2009, or as may be subsequently amended.

3.1 Development Standards

3.1.1 Permitted Uses: Those uses included as a matter of right in the Commercial Neighborhood District (CN) and uses customarily accessory to permitted uses.

3.1.2 Maximum Building Coverage: The maximum coverage of any building on any lot or parcel shall not exceed fifty percent (50%) of the net lot area.

3.1.3 Maximum Building Floor Area 100,000 S.F.

3.1.4 Minimum Lot Size 18,000 S.F.

3.1.5 Access To Abutting Streets: There shall be a maximum of four access points to Tucson Street and one access point to Elm Place. All access points shall be located at least 200 feet apart, centerline to centerline. Cross access shall be permitted between each lot.

3.1.6 Minimum Lot Frontage on a Public Street 100 feet

3.1.7 Lot Splits: Lot splits shall be permitted provided the lots meet the minimum size of 18,000 square feet and each lot has a minimum frontage of 100 feet on a public street or fronts upon a private drive that provides access to a public street and no additional access point is established to Elm Place or Tucson Street.

3.1.8 Maximum Building Height 35 feet

Architectural elements and business logos may exceed the maximum building height with Site Plan Approval.

3.1.9 Off-Street Parking: As required by Article IV of the Broken Arrow Zoning Code for the Permitted Uses. Part of the required off-street parking for any lot may be provided on another lot with approved mutual access and parking covenants.

3.1.10 Minimum Building Set Backs:

From the centerline of West Tucson Street 110 feet
From the centerline of South Elm Place 110 feet
From the south boundary 17.5 feet
From the west boundary 17.5 feet
From interior boundaries 0 feet

3.1.11 Landscaping: Landscaping shall be provided in accordance with Section 5.2 of the Broken Arrow Zoning Ordinance, except that a landscape edge at least 15 feet in width shall be provided along Elm Place and Tucson Street. At least 10% of the net lot area of each lot shall be landscaped open space. The amount of landscape area shall be calculated and shown on the site plan submitted to the City.

3.1.12 Visual Screening: Visual screening shall not be required along the boundaries of adjacent stormwater drainage areas developed under an approved stormwater drainage plan. Visual screening, if any is required, shall be established as part of the site plan review and approval.

3.1.13 Signs: Signs shall be installed in accordance with the City of Broken Arrow Zoning Ordinance. All free standing signs shall be limited to a

maximum height of 14 feet and a maximum size of 100 square feet with a monument type base. The base of the sign shall be of the same materials as the principle building on the lot. No portable signs or banners shall be located in a utility easement, unless hold harmless agreement is agreed to by the City. Furthermore, the maximum number of free-standing signs allowed on Tucson Street is limited to four, while the maximum number if free-standing signs allowed on Elm Place is limited to two.

3.1.14 Lighting: Exterior lighting for the development shall conform to the standards set forth in Section 5.6 of the Broken Arrow Zoning Ordinance.

3.1.15 Building Facades: The building facades shall be designed in accordance with the provisions of Section 5.8.G. All facades of each building shall be made of brick masonry.

SECTION IV. PROPERTY OWNERS' ASSOCIATION

4.1 Formation

The Owner/Developer has formed or shall cause to be formed in accordance with the statutes of the State of Oklahoma, 121 ELM PROPERTY OWNERS' ASSOCIATION, INC., a nonprofit corporate entity (herein referred to as the "Association"). The Association shall be formed for the general purposes of maintaining Reserve "A".

4.2 Membership

Every person or entity who is a record owner of the fee interest of a lot within "121 ELM" shall be a member of the Association. Membership shall be appurtenant to and may not be separated from the ownership of a lot. The acceptance of a deed to a lot shall constitute acceptance of membership to the Association as of the date of incorporation, or as of the date of recording of the deed, whichever occurs last.

4.3 Covenant for Assessments

The owner and each subsequent owner of a lot, by acceptance of a deed thereto, are deemed to covenant and agree to pay the Association an annual assessment which shall be no less than the minimum amount necessary to adequately maintain and support all common areas of interest including, without limitation Reserve "A" as designated on the plat. Said assessments will be established by the Board of Directors in accordance with the declaration and the bylaws of the Association. An unpaid assessment shall be a lien against the lot which it is made. The lien, however, shall be subordinate to the lien of any first mortgage

4.4 Enforcement Rights of the Association

Without limitation of such other powers and rights as the Association may have, the Association shall be deemed a beneficiary, to the same extent as a lot owner, of the various covenants set forth within this Deed of Dedication, and shall have the right to enforce all the covenants to the same extent as a lot owner.

SECTION V. ENFORCEMENT, DURATION, AMENDMENT, AND SEVERABILITY

5.1 Enforcement

The restrictions herein set forth are covenants to run with the land and shall be binding upon the Owner/Developer, its successors and assigns. Within the provisions of Section I. Streets, Easements and Utilities are set forth certain covenants and the enforcement rights pertaining thereto, and additionally the covenants within Section I. whether or not specifically therein so stated shall inure to the benefit of and shall be enforceable by the City of Broken Arrow, Oklahoma. The covenants contained in Section III. Planned Unit Development Restrictions are established pursuant to the Planned Unit Development provisions of the City of Broken Arrow Zoning Code and shall inure to the benefit of the City of Broken Arrow, Oklahoma, and the owners of the land within "121 ELM". If the undersigned Owner/Developer, or its successors or assigns, shall violate any of the covenants within Section III., it shall be lawful for the City of Broken Arrow, Oklahoma, or any owner of a part of the land within "121 ELM" to maintain any action at law or in equity against the person or persons violating or attempting to violate any such covenant, to prevent him or them from so doing or to compel compliance with the covenant. In any judicial action brought by an owner of a part of the land within "121 ELM" which action seeks to enforce the covenants or restrictions set forth herein or to recover damages for the breach thereof, the prevailing party shall be entitled to recover reasonable attorneys fees and costs and expenses incurred in such action.

5.2 Duration

These restrictions, to the extent permitted by applicable law, shall be perpetual but in any event shall be in force and effect for a term of not less than thirty (30) years from the date of the recording of this Deed of Dedication unless terminated or amended as hereinafter provided.

5.3 Amendment

The covenants contained within Section I. Streets, Easements and Utilities may be amended or terminated at any time by a written instrument signed and acknowledged by the owner of the land to which the amendment or termination is to be applicable and approved by the Broken Arrow Planning Commission, or its successors and the City of Broken Arrow, Oklahoma. The covenants contained within Section III. Planned Unit Development Restrictions, may be amended or terminated at any time by a written instrument signed and acknowledged by the owner of the land to which the amendment or termination is to be applicable and approved by the Broken Arrow Planning Commission, or its successors. The provisions of any instrument amending or terminating covenants as above set forth shall be effective from and after the date it is properly recorded.

5.4 Severability

Invalidation of any restriction set forth herein, or any part thereof, by an order, judgment, or decree of any Court, or otherwise, shall not invalidate or affect any of the other restrictions or any part thereof as set forth herein, which shall remain in full force and effect.

IN WITNESS WHEREOF: Stone Horse Development, LLC, an Oklahoma limited liability company, has executed this instrument this ____ day of March, 2017.

Stone Horse Development, LLC,
an Oklahoma limited liability company

Pete Kourtis, Manager

State