

KENOSHA CROSSING
DEED OF DEDICATION
AND
RESTRICTIVE COVENANTS

KNOW ALL MEN BY THESE PRESENTS:

KMO DEVELOPMENT GROUP, INC., an Oklahoma corporation, hereinafter referred to as the Owner/Developer, is the owner of the following described land in the City of Broken Arrow, Tulsa County, State of Oklahoma, to wit:

A part of the Southwest Quarter (SW/4) of Section 1, Township 18 North, Range 14 East, Indian Meridian, City of Broken Arrow, Tulsa County, State of Oklahoma, according to the Official U. S. Government Survey thereof, being described as follows:

The area bounded on the north by the southerly right-of-way of the Broken Arrow Expressway (State Highway 51), bounded on the south by the northerly right-of-way of East Kenosha Avenue (East 77th Street South), bounded on the west by the easterly right-of-way of North 9th Street (South 177th East Avenue), being more particularly described as follows:

Commencing at the southwest corner of Section 1, Township 18 North, Range 14 East, Indian Meridian;

Then N 0118'16" W along the west line of the SW/4 of Section 1, a distance of 136.63 feet;

Thence N 88°41'44" E a distance of 60.00 feet to the easterly right-of-way of North 9th Street, solid point being also the "Point of Beginning";

Thence N 0118'16" W along the easterly right-of-way of North 9th Street a distance of 213.37 feet;

Thence N 0230'35" E along the easterly right-of-way of North 9th Street a distance of 150.33 feet;

Thence N 0118'16" W along the easterly right-of-way of North 9th Street a distance of 50.00 feet;

Thence N 1236'52" W along the easterly right-of-way of North 9th Street a distance of 50.99 feet;

Thence N 0118'16" W along the easterly right-of-way of North 9th Street a distance of 372.52 feet;

Thence N 0642'47" E along the easterly right-of-way of North 9th Street a distance of 249.11 feet to the southerly right-of-way of the Broken Arrow Expressway (State Highway 51);

Thence S 68°03'22" E along the southerly right-of-way of the Broken Arrow Expressway (State Highway 51) a distance of 1335.23 feet to the east line of the W/2 of the SW/4 of Section 1;

Thence S 0118'40" E along the southerly right-of-way of the Broken Arrow Expressway (State Highway 51) and along the east line of the W/2 of the SW/4 of Section 1 a distance of 25.45 feet;

Thence S 64°03'27" E along the southerly right-of-way of the Broken Arrow Expressway (State Highway 51) a distance of 394.85 feet;

Thence along a curve to the right and along the southerly right-of-way of the Broken Arrow Expressway (State Highway 51) with a chord bearing of S 32°39'00" E, a chord distance of 419.46 feet, a central angle of 62°48'55", a radius of 402.46 feet and an arc length of 441.23 feet;

Thence S 20°19'12" W, (not tangent to previous curve), along the southerly right-of-way of the Broken Arrow Expressway (State Highway 51) a distance of 44.83 feet to the northerly right-of-way of East Kenosha Avenue;

Thence N 0253'39" E along the northerly right-of-way of East Kenosha Avenue a distance of 275.39 feet;

Thence S 88°49'04" W along the northerly right-of-way of East Kenosha Avenue a distance of 277.66 feet to the east line of the W/2 of the SW/4 of Section 1;

Thence S 0118'42" E along the east line of the W/2 of the SW/4 of Section 1 and along the northerly right-of-way of East Kenosha Avenue a distance of 10.50 feet;

Thence S 88°49'04" W along the northerly right-of-way of East Kenosha Avenue a distance of 370.08 feet;

Thence N 0110'56" W along the northerly right-of-way of East Kenosha Avenue a distance of 5.00 feet;

Thence S 88°49'04" W along the northerly right-of-way of East Kenosha Avenue a distance of 350.00 feet;

Thence N 0110'56" E along the northerly right-of-way of East Kenosha Avenue a distance of 5.00 feet;

Thence S 88°49'04" W along the northerly right-of-way of East Kenosha Avenue a distance of 463.79 feet;

Thence N 46°19'16" W along the northerly right-of-way of East Kenosha Avenue and North 9th Street a distance of 108.82 feet to the "Point of Beginning".

The above described tract contains 1,373,081 square feet or 31.52 acres.

The Bearings are based on an Oklahoma State Plane Grid bearing of S 88°49'04" W along the south line of the SW/4 of Section 1, T-18-N, R-14-E, of the Indian Meridian, Tulsa County, State of Oklahoma according to the U. S. Government Survey thereof;

and has caused the above described land to be surveyed, staked, platted and subdivided into lots, blocks, reserve areas and streets, in conformity with the accompanying plat, and has designated the subdivision as "KENOSHA CROSSING", a subdivision in the City of Broken Arrow, Tulsa County, Oklahoma.

SECTION I.
STREETS, EASEMENTS AND UTILITIES

A. Public Streets and General Utility Easements

The Owner/Developer does hereby dedicate for public use the streets as depicted on the accompanying plat and does further dedicate to the utility easements as depicted on the accompanying plat, all rights, title and interest in and to the land, including, but not limited to, the right to enter, construct, maintain, operating, repairing, replacing, and/or removing any and all public utilities, including storm sewers, sanitary sewers, telephone and communication lines, electric power lines and gas lines, and any other structures, fixtures and equipment, 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 shall be responsible for the repair of damage to and maintenance, maintenance, operation, laying out, laying over, across and along all of the utility easements depicted on the accompanying plat, and the repair of damage to and maintenance of the easements included in the plat. The Owner/Developer herein imposes a restrictive covenant, which covenant shall be binding on each lot owner and shall be enforceable by the City of Broken Arrow, Oklahoma, to the extent that the same is binding upon the Owner/Developer, its successors and assigns, and shall be enforceable as hereinafter set forth.

B. Underground Service

1. Overhead lines for the supply of electric, telephone and cable television services may be located along the perimeter boundaries of the subdivision and along the East boundary of Lot, 5, Block 2 and the East boundaries of Lots 5, 6 & 7, Block 1 if located within the public street and/or utility easements herein established. Street light poles or other utility service poles or lines may be located within the public street and/or utility easements depicted on the accompanying plat no building, structure or other above or below ground obstruction that interferes with the above set forth uses and purposes of a street or easement. Utility poles, structures, equipment, and other utility facilities, as depicted on the accompanying plat, Service pedestals and transformers, as sources of supply at secondary voltages, may also be located in easements.

2. Underground service cables to all structures which may be located within the subdivision may be run from the nearest service pedestal or transformer to the point of use. The maximum floor area within each lot shall not exceed .25 of the lot area, provided however, within Lot 5 Block 2 the maximum floor area shall not exceed .30 of the lot area.

3. The supplier of electric, telephone, cable television and gas services, through its agents and employees, shall have all time, honor, right of access to all easements shown on the accompanying plat, provided for the use of the Owner/Developer, its successors and assigns, for the purpose of installing, maintaining, removing or replacing any portion of the underground electric, telephone, cable television or gas facility installed by the supplier of the utility service.

4. The owner of the lot shall be responsible for the protection of the underground service facilities located on his lot and shall prevent the alteration of grade or any construction activity which would interfere with the use of the utility service facility.

The supplier of service shall be responsible for ordinary maintenance of underground facilities, but the owner shall pay for damage or relocation of such facilities caused or necessitated by acts of the owner or his agents or contractors.

5. The foregoing covenants set forth in this Paragraph B shall be enforceable by the supplier of the electric, telephone, cable television or gas service and the owner of the lot agrees to be bound hereby.

C. Water and Sewer Service

1. The owner of the lot shall be responsible for the protection of the public water and sewer mains located on the owner's lot.
2. Within the utility easement areas depicted on the accompanying plat, the alteration of ground elevations in excess of 3 feet from the contours existing upon the completion of the installation of a public water main or sewer main, or any construction activity which would interfere with public water and sewer mains, is hereby prohibited. Within the utility easement areas shown on the accompanying plat, if the ground elevations are altered from the contours existing upon the completion of the installation of a public water or sewer main, or ground level apertures, including valve boxes, fire hydrants, manholes, or other structures, are located on the lot, the owner of the lot or at its election, the City of Broken Arrow, Oklahoma may make such adjustment at the expense of the owner of the lot.
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.
4. The City of Broken Arrow, Oklahoma, or its successors, shall at all times have right of access to all easements depicted on the accompanying plat, or otherwise provided for in the Deed of Dedication, for the purpose of installing, maintaining, removing or replacing any portion of underground water or sewer facilities.
5. The foregoing covenants set forth in this Paragraph C shall be enforceable by the City of Broken Arrow, Oklahoma, or its successors, and the owner of the lot agrees to be bound hereby.

D. Surface Drainage

Each lot shall receive and drain, in an unobstructed manner, the storm and surface waters from lots and drainage areas adjacent to the lot, public streets and easements. No lot owner shall be permitted to construct any fence or other structures which would impair the drainage of storm and surface waters over and across his lot. The foregoing covenants set forth in this Paragraph D shall be enforceable by any affected lot owner and by the City of Broken Arrow, Oklahoma.

E. Stormwater Detention

1. The Owner/Developer does hereby grant and establish a perpetual easement on, over and across Reserves "A" and "B" (hereinafter referred to as the Detention Easement Area) for the purposes of permitting the flow, conveyance, detention and discharge of stormwater runoff from the lots within Kenosha Crossing.
2. Detention and other drainage facilities constructed within Reserves "A" and "B" shall be in accordance with standards and specifications approved by the City of Broken Arrow, Oklahoma.
3. Detention and other drainage facilities within Reserves "A" and "B" shall be maintained by the property owners' association to be formed pursuant to Section III and maintenance shall be in accordance with the following standards:

- (a) The Detention Easement Area shall be kept free of litter.
- (b) The Detention Easement Area shall be mowed during the growing season of intervals not exceeding 4 weeks.
- (c) In the event the property owners' association shall fail to properly maintain the Detention Easement Area, as above set forth, the City of Broken Arrow, Oklahoma may file a reversionary easement over the Detention Easement Area and place a lien against the lot for the cost thereof shall be paid by the property owners' association.
- (d) In the event the property owners' association, after completion of the maintenance and receipt of a statement of costs, fails to pay the cost of maintenance as above set forth, the City of Broken Arrow, Oklahoma may file a reversionary easement over the Detention Easement Area and place a lien against each lot within Kenosha Crossing, provided however, the lien against each lot shall not exceed a proportionate share computed by dividing the total cost of the lot by the total lot (the numerator), 1,59,960 square feet (the denominator).
- (e) A lien established as above provided may be foreclosed by the City of Broken Arrow, Oklahoma.

F. Limits Of No Access

The undersigned Owner/Developer hereby relinquishes rights of vehicular ingress or egress from any portion of property adjacent to Kenosha Street (East 71st Street South) and North 9th Street (South 177th East Avenue) within the bounds designated as "Limits of No Access" (LNA) on the accompanying plat, which "Limits of No Access" may be amended or released by the City of Broken Arrow, Oklahoma, or its successors, with the concurrence of the owner of the lot affected, or as otherwise provided by the statutes and laws of the State of Oklahoma pertaining thereto.

G. Pavings and Landscaping, Within Easements

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

SECTION II.
PLANNED UNIT DEVELOPMENT RESTRICTIONS

WHEREAS, Kenosha Crossing was submitted as a planned unit development (designated as PUD No. 92) as provided within Section 3 of Ordinance 1560 of the City of Broken Arrow, Oklahoma (Broken Arrow Zoning Code), as the same existed on September 5, 1995, and by the City of Broken Arrow, Oklahoma, on September 5, 1995, and

WHEREAS, the Planned Unit Development provisions of the Broken Arrow Zoning Code require the execution of record, filing and/or enforcement 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 insure adequate restrictions for the mutual benefit of the Owner/Developer, its successors and assigns, and the City of Broken Arrow, Oklahoma.

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

A. Use of Land

1. The development of Kenosha Crossing shall be subject to the Planned Unit Development provisions of the Broken Arrow Zoning Code, as the same existed on September 5, 1995 or as subsequently amended.
2. The use of the Lots within Kenosha Crossing shall be limited to the uses permitted by right-of-way, zoning, planned unit development, and/or the C-5, Industrial and Commercial Recreation District as set forth within the Broken Arrow Zoning Code.
3. Reserves "A" and "B" shall be limited to use for utility, stormwater drainage facilities, open space, landscaping and/or recreation and are reserved for subsequent conveyance to the property owners' association to be formed pursuant to Section III hereof.
4. Reserves "C" and "D" shall be limited to landscaping and project identification signage and are reserved for subsequent conveyance to the property owners' association to be formed pursuant to Section III hereof.

B. Development Standards

The Lots within Kenosha Crossing shall be subject to the following restrictions and limitations:

1. Floor Area

The maximum floor area within each lot shall not exceed .25 of the lot area, provided however, within Lot 5 Block 2 the maximum floor area shall not exceed .30 of the lot area.
2. Building Setbacks
 - (a) No building shall be located nearer to a public street or the Broken Arrow Expressway than the building lines depicted on the accompanying plat, provided however, setbacks from an intersecting street may be reduced to 25 feet if the setback area is landscaped.
 - (b) Buildings shall setback from lot boundaries (other than street boundaries) a distance of not less than 10 feet.
 - (c) No building, whether principal or accessory, shall encroach upon any utility easement.
3. Off-Street Parking

Off-Street parking shall be provided as set forth within Article IV of the accompanying plat. Within the boundaries of the lots, one parking space per 72 square feet of gross floor area if no sit down bar service is provided and one parking space shall be provided for each 60 square feet of gross floor area if sit down bar service is provided.

5. The foregoing covenants set forth in this Paragraph B shall be enforceable by the supplier of the electric, telephone, cable television or gas service and the owner of the lot agrees to be bound hereby.

4. Building Height

The height of buildings shall not exceed 3 stories, provided however, hotel or motel buildings may be 4 stories.

5. Landscaped Areas

- (a) Not less than 5% of the lot area shall be landscaped.
- (b) A landscaped area of not less than 10 feet shall be established along the Kenosha (East 71st Street South), North 9th Street (South 177th East Avenue) and/or Broken Arrow Expressway frontage of each lot. A landscaped area of not less than 20 feet shall be established along the Kenosha (East 71st Street South) frontage of Lot 5, Block 2.
- (c) Reserves "A" and "B" shall be landscaped.

6. Signs

Signs necessary to principal or permitted uses shall comply with the restrictions of the planned unit development provisions of the City of Broken Arrow Zoning Code, and shall comply with the following restrictions:

(a) Utility Easements / Reserves

No sign shall be located within any utility easement or reserve except project identification signage located within Reserves "C" and "D".

(b) Within Lot 1, Block 1 and Lots 1 and 2, Block 2

- (i) Ground Signs

Each lot shall be limited to one ground sign, monument in design, not exceeding 10 feet in height nor 80 square feet in display surface area, and setback from the adjoining Lynn Lane right-of-way not less than 20 feet.
- (ii) Wall or Canopy Signs

The aggregate display surface area of wall or canopy signs shall be limited to 1 1/2 square feet per each linear foot of the building wall to which the sign or signs are affixed. Wall or canopy signs shall not exceed the height of the building.
- (iii) Within Lots 2, 3, 4, 5, 6 and 10, Block 1 and Reserve "B"

(i) Ground Signs

- In the event the property owners' association fails to maintain the ground signs along the Broken Arrow Expressway right-of-way which may be either pole signs each not exceeding 20 feet in height and 150 square feet in display surface area or signs on poles each not exceeding 12 feet in height and 150 square feet in display surface area, the above permitted ground signs shall be setback not less than 20 feet from the building wall to which the sign or signs are affixed.
- Each lot shall be limited to one ground sign, either monolith or pole not exceeding 20 feet in height and 128 square feet in display surface area, or one backdrop from the centerline of Kenosha not less than 100 feet.

(ii) Wall or Canopy Signs

- The aggregate display surface area of wall or canopy signs shall be limited to 3 square feet per each linear foot of the building wall to which the sign or signs are affixed. Wall or canopy signs shall not exceed the height of the building.
- Within Lots 3, 4, 5, 7 and 8, Block 2 and Lots 7 through 9, Block 1

(i) Ground Signs

- Each lot shall be limited to one ground sign, either monolith or pole not exceeding 20 feet in height and 128 square feet in display surface area, or one backdrop from the centerline of Kenosha not less than 100 feet.
- Within Lots 6, Block 1 and Lot 6, Block 2