



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, June 8, 2026

5:00 PM

Council Chambers

1. Call to Order

2. Roll Call

3. Consideration of Consent Agenda

- A. [26-814](#) Approval of Board of Adjustment meeting minutes of April 13, 2026

Attachments: [04.13.2026 Meeting Minutes](#)

- B. [26-815](#) Approval of Board of Adjustment meeting minutes of May 11, 2026

Attachments: [05.11.2026 Meeting Minutes](#)

4. Public Hearings

- A. [26-826](#) Appeal (APPL-002751-2026) of four Zoning Violations (ZON-0025337-2025, ZON-025338-2025, ZON-025339-2025, ZON-025340-2025), D&B Processing, 21.3 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 Map](#)
[4-Zoning Violation Letters](#)
[5-First Amended Notice of Appeal](#)
[6-Zoning Ordinance §6-3-5.3 Appeals](#)

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 #: 26-814, **Version:** 1

**Broken Arrow Board of Adjustment
06-08-2026**

To: Chairman and Board Members
From: Community Development Department

Title:

Approval of Board of Adjustment meeting minutes of April 13, 2026

Background: Minutes recorded for the Broken Arrow Board of Adjustment meeting.

Attachments: 04 13 2026 Board of Adjustment Minutes

Recommendation: Approve minutes of Board of Adjustment meeting held April 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
Rebecca Hinkle Board Member
Michelle Bergwall Board Member

Monday, April 13, 2026

Board Chambers

1. Call to Order

Chairman Judd Hatch called the meeting to order at 5:00 p.m.

2. Roll Call

Present: 4 - Michelle Bergwall, George Ghesquire, Rebecca Hinkle, Judd Hatch
Absent: 1- Kamara Washington

3. Consideration of Consent Agenda

A. 26-477 Approval of Board of Adjustment meeting minutes of March 9, 2026

MOTION: A motion was made by Rebecca Hinkle, seconded by George Ghesquire
Move to Approve Consent Agenda

The motion carried by the following vote:

Aye: 3 - George Ghesquire, Rebecca Hinkle, Judd Hatch
Abstain: 1 - Michelle Bergwall

4. Public Hearings

A. 26-458 Public hearing, consideration, and possible action regarding VAR-002667-2025, 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)

Item 26-458 was continued to the May 11, 2026 meeting.

MOTION: A motion was made by Rebecca Hinkle, seconded by Michelle Bergwall
Move to Continue Item 26-458 Public hearing, consideration, and possible action regarding VAR-002667-2025, 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) to May 11, 2026

The motion carried by the following vote:

Aye: 4 - Michelle Bergwall, George Ghesquire, Rebecca Hinkle, Judd Hatch

B. 26-462 Public hearing, consideration, and possible action regarding VAR-002593-2025, Ft. Worth Apartments approximately 0.32 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-fourth mile north of Westn Houston Street (81st Street), and one-half mile west of 9th Street (177th East Avenue)

Jose Jimenez, Planner II, presented Item 26-462, a variance request for the Fort Worth Apartments project, a 15-unit multifamily development on 0.32 acres within the Downtown Residential Overlay District. The request seeks to reduce the required driveway width to 20 feet for a one-way drive, citing challenges posed by the narrow, historic lot layout and the need to meet modern parking and development standards. Staff determined the request meets all four criteria for granting a variance—unnecessary hardship, unique property conditions, no harm to the public good, and being the minimum relief necessary—while supporting the district’s goal of higher-density housing. Staff recommended approval, and the applicant was present to

answer questions.

The applicant's representative, Justin DeBruin of Wallace Design Collective, spoke in support of the variance request, emphasizing that the proposed 20-foot one-way driveway meets life safety requirements and has been approved by the city engineer and fire department. He argued that wider driveway standards are not consistent with existing downtown conditions, noting most nearby examples are around 20 feet and that a 26-foot requirement would significantly reduce developable space on the narrow lot. He also cited city plans and the Downtown Residential Overlay District's goals of promoting higher-density housing and minimizing overly wide pavement to maintain pedestrian-friendly design. Mr. DeBruin concluded that the project aligns with these goals and would be a quality addition to the area, asking the board to approve the variance.

Board members asked clarifying questions about the proposed development and driveway variance. The applicant confirmed the project includes 15 one-bedroom units with 15 parking spaces and a one-way driveway connecting to an alley. Discussion highlighted that Fort Worth Street is about 20 feet wide, raising concerns about requiring a wider 26-foot driveway for a one-way drive. Members also discussed alley access, noting it functions primarily as a one-way route back to Fort Worth Street. Staff added that ongoing updates to the downtown master plan may revisit driveway width standards if similar variance requests continue to arise.

The project architect, Jameson Schaeffer, clarified that while the alley extends slightly to the east, it does not continue far, making westbound travel the only practical direction for vehicles exiting the site.

**MOTION: A motion was made by Michelle Bergwall, seconded by Judd Hatch
Move to Approve Item 26-462 VAR-002593-2025, Ft. Worth Apartments, approximately 0.32 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-fourth mile north of Westn Houston Street (81st Street), and one-half mile west of 9th Street (177th East Avenue)**

The motion carried by the following vote:

Aye: 2 - Michelle Bergwall, Judd Hatch
Nay: 1 - Rebecca Hinkle
Abstain: 1 - George Ghesquire

Motion fails due to the vote tally. Three votes are needed to approve. Information on how to appeal was given to the applicant.

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 5:16 p.m.

**MOTION: A motion was made by Rebecca Hinkle, seconded by Michelle Bergwall
Move to Adjourn**

The motion carried by the following vote:

Aye: 4 - Michelle Bergwall, George Ghesquire, Rebecca Hinkle, Judd Hatch



City of Broken Arrow

Request for Action

File #: 26-815, **Version:** 1

**Broken Arrow Board of Adjustment
06-08-2026**

To: Chairman and Board Members
From: Community Development Department

Title: Approval of Board of Adjustment meeting minutes of May 11, 2026
Background: Minutes recorded for the Broken Arrow Board of Adjustment meeting.

Attachments: 05 11 2026 Board of Adjustment Minutes

Recommendation: Approve minutes of Board of Adjustment meeting held May 11, 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
Rebecca Hinkle Board Member
Michelle Bergwall Board Member

Monday, May 11, 2026

Council Chambers

1. Call to Order

Chairman Judd Hatch called the meeting to order at 5:00 p.m.

2. Roll Call

Present: 4 - George Ghesquire, Kamara Washington, Rebecca Hinkle, Judd Hatch
Absent: 1 - Michelle Bergwall

3. Consideration of Consent Agenda

Nothing listed on Consent Agenda.

4. Public Hearings

A. 26-662 **Withdraw Variance VAR-002667-2025, 202 Elgin Apartments, approximately 0.24 acres, Downtown Residential Overlay District 5, located one-half mile north of Houston Street (81st Street), one-half mile west of 9th Street (177th E Ave/Lynn Lane)**

The applicant withdrew this item.

B. 26-661 **Appeal (APPL-002751-2026) of a Zoning Violation (ZON-025340-2025), D&B Processing, 2.8 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)**

Jane Wyrick, Planning & Development Manager, presented Item 26-661 and requested the item be tabled until the June meeting due to the notice sign that goes on the property being put in the wrong location.

MOTION: A motion was made by Rebecca Hinkle, seconded by Kamara Washington **Move to table Item 26-661 Appeal (APPL-002751-2026) of a Zoning Violation (ZON-025340-2025), D&B Processing, 2.8 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) until the June 8, 2026, meeting.**

The motion carried by the following vote:

Aye: 4 - George Ghesquire, Kamara Washington, Rebecca Hinkle, 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 5:04 p.m.

MOTION: A motion was made by Kamara Washington, seconded by Rebecca Hinkle **Move to adjourn**

The motion carried by the following vote:

Aye: 4 - George Ghesquire, Kamara Washington, Rebecca Hinkle, Judd Hatch



City of Broken Arrow

Request for Action

File #: 26-826, Version: 1

**Broken Arrow Board of Adjustment
06-08-2026**

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

Appeal (APPL-002751-2026) of four Zoning Violations (ZON-0025337-2025, ZON-025338-2025, ZON-025339-2025, ZON-025340-2025), D&B Processing, 21.3 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: D&B Processing, LLC through Tadd Bogan, Jones, Gotcher & Bogan, 3800 First Place Tower 15 East Fifth Street, Tulsa, Oklahoma, 74103-4309

Property Owners: Industrial Developers of Oklahoma 5, LLC; Rogers Family Investments, LLC; Nunneley Investments, LTD; Furmanite US GSG, LLC

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 21.3 acres

Number of Lots: 4

Present Zoning: A-IL (Annexed-Industrial Light)

Comp Plan: Level 6 (Regional Employment/Commercial)

APPL-002751-2026 is an administrative appeal of four Zoning Violation determinations (ZON-025337-2025, ZON-025338-2025, ZON-025339-2025, ZON-025340-2025) for violations of the Industrial Light zoning district rules and regulations issued on December 5, 2025. Each of these violations pertain to separate parcels where D&B Processing, LLC conducts business operations. These include 21900 E 96th Street, 9600 S 219th E Avenue, 9740 S 219th E Avenue, and 9750 S 219th E Avenue as shown on the attached Location Map.

The City of Broken Arrow received numerous complaints in 2025 from an adjacent 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 enforcement record includes staff observations, December 5, 2025 violation letters, information provided through verbal and in-person complaints, and photographs/videos submitted to the City by a nearby property owner. The videos and photographs were not created by the City but were reviewed by staff as art of the zoning enforcement record.

The letters of violation included a compliance date of January 5, 2026. Compliance was not met by this date, and a citation was issued on March 9, 2026, to appear in Municipal Court on March 24, 2026. Subsequently, D&B Processing, LLC's attorney filed an appeal on March 17, 2026. Section 6-3-5.3.C.1 states that "an appeal of any order, requirement, decision, or determination shall stay all proceedings unless the Administrator certifies that a stay would cause imminent peril to life or property." Thus, the citation was dismissed upon receipt of the appeal and is now before the Board of Adjustment. This appeal concerns only the administrative zoning determinations reflected in the December 5, 2025 zoning code 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. Accordingly, the question before the Board is whether the administrative zoning determinations reflected in ZON-025337-2025, ZON-025338-2025, ZON-025339-2025, and ZON-025340-2025 were appropriate based on the Zoning Ordinance and the record presented.

The Board is not being asked to approve a rezoning, grant a variance, approve a special exception, or adjudicate a municipal court citation. Section 6-3-5.3.C provides that a decision on an appeal does not grant a variance. The Board also should not treat this appeal as a proceeding to dismiss, reverse, or adjudicate the municipal citation referenced in the appellant's First Amended Notice of Appeal. The appellant also raises a constitutional vagueness argument regarding the phrase "objectionable noise." That argument is preserved in the appellant's filing, but the Board's role in this administrative appeal is to apply the Zoning Ordinance as adopted. The Board should not treat this appeal as a proceeding to declare any portion of the Zoning Ordinance unconstitutional.

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 First Amended Notice of 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 violations and citation be reversed and overturned due to D&B's compliance with the Zoning Code." The Appellant also states it has leased a yard outside the industrial park to reduce semi-truck traffic and noise and changed its method for loading I-beams to reduce noise. The First Amended Notice of Appeal further asserts that all manufacturing occurs inside enclosed structures, that outdoor storage is allowed with screening, that the complaining residence is outside the City limits, and that any alleged nonconforming use is not a violation of the Zoning Ordinance.

As noted previously, the citation has been dismissed. Section 6-3-5.3.A provides Specific Review Criteria for appeals (see Attachment 5, Zoning Ordinance Section 6-3-5.3). 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 has reviewed the record of this case, the violation notices, the evidence presented, and the First Amended Notice of Appeal. Staff concludes that D&B Processing, LLC's industrial operations violated Section 2-1-2(D) of the Zoning Ordinance because the industrial operations produced off-site impacts associated with objectionable noise, dust, vibration, outdoor material movement, and related industrial activity inconsistent with the Industrial Light district Standards.

Staff Response to Appellant's Claims:

1. Remedial measures do not establish that the zoning determinations were incorrect. The appellant's listed remedial measures may be relevant to future compliance, but they do not require reversal of the December 5, 2025 zoning determinations. To the contrary, the measures described by the appellant confirm that D&B recognized operational impacts associated with material movement, scrap containers, forklifts, overhead doors, dust, truck traffic, and loading practices.
2. Approval of a proposed sound barrier wall does not equal a zoning compliance determination. A sound wall may be one potential mitigation measure, but plan approval for a wall does not determine that the underlying industrial operations comply with the Industrial Light district standards, nor does it require the Board to reverse the violation notices.
3. The appellant's self-reported decibel readings are not dispositive. The First Amended Notice of Appeal lists several short-duration readings of 72, 65, and 68 decibels, each lasting less than ten seconds. The readings were not submitted as part of an independent acoustical report, do not establish a complete methodology, do not address all affected property lines or times of operation, and do not resolve the reported vibration, dust, truck traffic, loading, overhead-door, and outdoor material-handling impacts. Section 2-1-2(D) does not require staff to prove a specific decibel threshold before determining that an industrial operation is producing objectionable noise.
4. Locating machinery inside a building is not enough by itself. The Industrial Light standard requires more than simply placing machinery inside an enclosed structure. The operation also must not produce airborne emissions, objectionable noise, glare, odor, vibrations, smoke, or dust associated with the industrial operation. Based on the record, staff determined that D&B's operations produced prohibited off-site impacts notwithstanding the location of certain machinery inside buildings.
5. Outdoor storage does not authorize outdoor industrial impacts. Although outdoor storage of raw materials and products may be permitted with proper screening, that provision does not authorize outdoor industrial operations or storage-related activities that produce objectionable noise, dust, vibration, or other prohibited impacts.
6. The location of the complaining residence outside City limits does not bar enforcement. The City is enforcing its Zoning Ordinance against industrial operations occurring within the City's jurisdiction. The relevant question is whether the use inside the City complies with the Industrial Light district standards, not whether every affected property is also inside the City limits.

7. The appellant has not established a lawful nonconforming right that requires reversal. The appellant bears the burden of establishing any lawful nonconforming use. The fact that certain buildings or operations existed before an amendment to the Zoning Ordinance does not, by itself, establish a lawful right to continue, expand, intensify, or modify operations in a manner that produces objectionable noise, dust, vibration, or other impacts prohibited by the Industrial Light district standards.

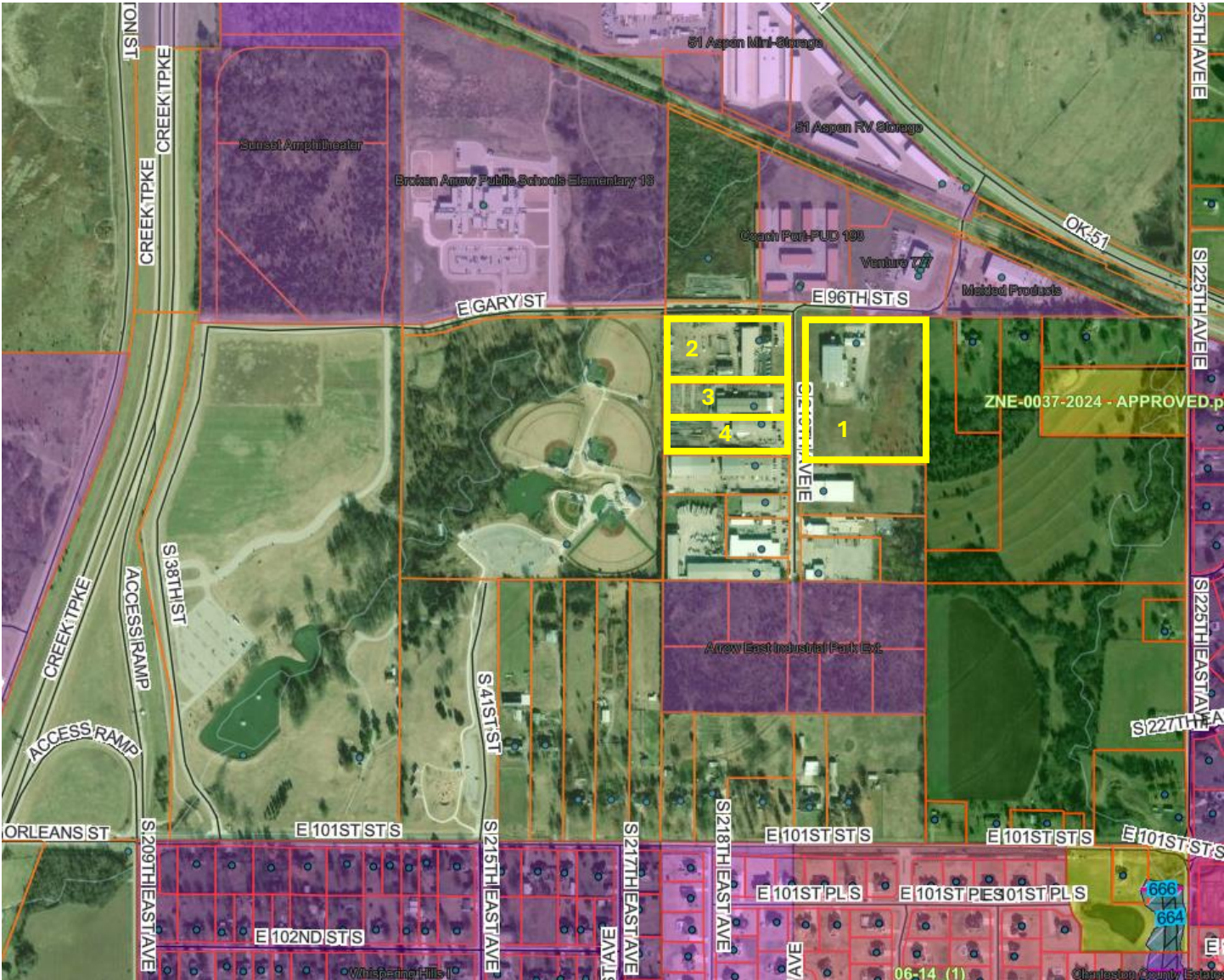
Attachments: Location map
 Comprehensive Plan Map
 Zoning Violation Letters
 First Amended Notice of Appeal
 Zoning Ordinance Section 6-3-5.3

Recommendation:

Based on the City of Broken Arrow Zoning Ordinance, Section 2-1-2(D), Section 6-3-5.3, the record of the case, and the evidence presented, staff recommends that the Board of Adjustment deny APPL-002751-2026 and uphold the administrative zoning determinations in ZON-025337-2025, ZON-025338-2025, ZON-025339-2025, and ZON-025340-2025.

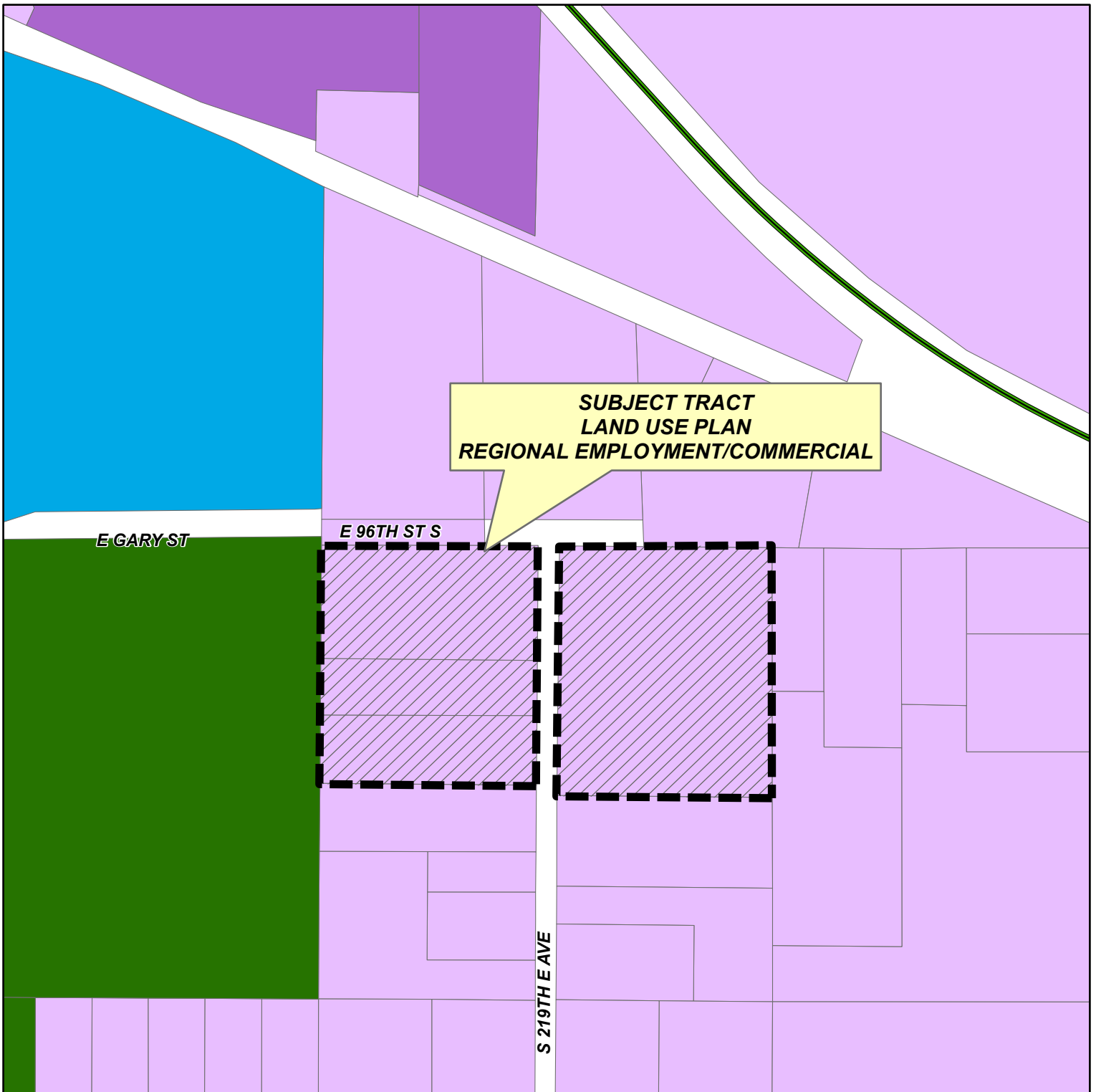
Reviewed by: Jane Wyrick

Approved by: Rocky Henkel



Location Map

1. 21900 E 96th Street
 - ZON-025337-2025
2. 9600 S 219th E Avenue
 - ZON-025338-2025
3. 9740 S 219th E Avenue
 - ZON-025339-2025
4. 9750 S 219th E Avenue
 - ZON-025340-2025















**SUBJECT TRACT
LAND USE PLAN
REGIONAL EMPLOYMENT/COMMERCIAL**

E GARY ST

E 96TH ST S

S 219TH AVE

Comprehensive Plan LUIS Classification

- | | |
|--|--|
|  Special District Overlay |  Level 6 - Regional Employment/Commercial |
|  Level 1 - Rural Residential |  Level 7 - Major Industrial |
|  Level 2 - Urban Residential |  Greenway/Floodplain |
|  Level 3 - Transition Area |  Public Recreation |
|  Level 4 - Commercial/Employment Nodes |  Private Recreation |
|  Level 5 - Downtown Area |  Public/Semi-Public |

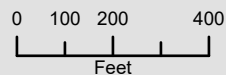


300' Radius



Subject Tract

APPL-002751-2026



20 18-15





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



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:

Parcel:

9600 S 219TH EAST AVE
BROKEN ARROW, OK 74014

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).

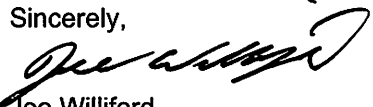
Corrective Action: Bring property into compliance with the Zoning Code as set out in section 2-1-2 (D) Commercial and Industrial Districts by conducting all operations entirely within an enclosed structure producing no airborne emissions, objectionable noise, glare, odor, vibrations, smoke or dust associated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



Joe Williford
Chief Building Inspector



City of Broken Arrow

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

Case Number: **ZON-025339-2025**

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:

Parcel:

9740 S 219TH EAST AVE
BROKEN ARROW, OK 74014

730006129

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 A PT ON THE W LINE OF SD NW OF SE SD, PT BEING 330' S OF TH NW COR THEREOF -S 00DEG 07'45" E ALONG SD W LINE A DIST, OF 165' -N 89 DEG 56'10" E A DIST OF 660' -N 00 DEG 07'45" W A DIST OF 165' -N, 89 DEG 56'10" W A DIST OF 660' TO POB BK 971 PG 734 (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).

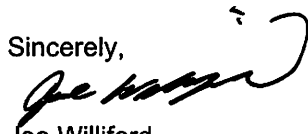
Corrective Action: Bring property into compliance with the Zoning Code as set out in section 2-1-2 (D) Commercial and Industrial Districts by conducting all operations entirely within an enclosed structure producing no airborne emissions, objectionable noise, glare, odor, vibrations, smoke or dust associated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



Joe Williford
Chief Building Inspector



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: D&B Processing

Mailing Address:

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

Notice of Violation for the following location:

Address:

Parcel:

9750 S 219TH EAST AVE
BROKEN ARROW, OK 74014

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.

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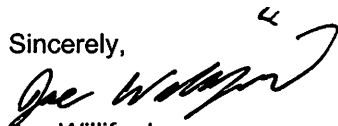
Corrective Action: Bring property into compliance with the Zoning Code as set out in section 2-1-2 (D) Commercial and Industrial Districts by conducting all operations entirely within an enclosed structure producing no airborne emissions, objectionable noise, glare, odor, vibrations, smoke or dust associated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

BOARD OF ADJUSTMENT FOR THE CITY OF BROKEN ARROW

OWNER: D&B PROCESSING, LLC

CASE NUMBERS: ZON-025337-2025

ZON-025338-2025

ZON-025339-2025

ZON-025340-2025

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

FIRST AMENDED NOTICE OF APPEAL

COMES NOW, D&B Processing, LLC (“D&B”), by and through its attorney, Tadd J.P. Bogan, and hereby provides the following written notice of appeal to the Board of Adjustment for the City of Broken Arrow (the “City”), and in support states as follows:

1. 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.
2. D&B was given until January 5, 2026, to comply with requirements set forth in the Zoning Violations.
3. The Zoning Violations alleges, “[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 did not initially dispute the Zoning Violations. Rather, D&B complied with the requirements of the Zoning Violations on or before January 5, 2026, and took measures beyond those required by the Zoning Violations.
5. 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 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 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;
 - 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; and
 - k. Changing the way that it loads I-Beams to reduce noise caused by the way the beams were previously loaded.
6. D&B is in the process of taking the following additional remedial measures:
- a. D&B has purchased a product that will be applied to the graveled surfaces to further eliminate dust from the same during high winds; and
 - b. 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.

7. Notwithstanding the foregoing, 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 “Citation”).

8. 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.”)

9. Notwithstanding the foregoing, D&B continuously measures the decibel levels of the noise from its operations. The levels below are the decibel measurements 192 yards 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 levels¹:

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

10. Second, the Zoning Violation erroneously alleges that not all manufacturing is being conducted entirely within an enclosed structure.

11. All manufacturing performed at D&B is conducted using large machinery/equipment, all of which is located inside of enclosed structures with large overhead doors for the movement of materials in and out of the enclosed structures.

12. Pursuant to the City Zoning Code, as amended 7/1/25, “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

¹ 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>.

manufacturing; machine or blacksmith shops; metalworking or welding shops... paint shops; and printing and publishing shops.”

13. By definition, outdoor storage of raw materials and products is permitted with proper screening. D&B has proper screening, and as stated above, stores raw materials and products on the west side of its building.

14. Based upon the foregoing, D&B is not in violation of the City’s Zoning Code.

15. 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 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.

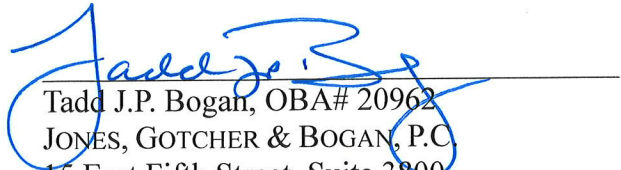
16. The 7-acre tract referenced above, and the complaining neighbor’s residence, are both outside the City of Broken Arrow.

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

18. 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.

WHEREFORE, premises considered, D&B Processing, LLC, hereby appeals the above referenced Zoning Violations and Citation, and requests that the same be reversed and overturned due to D&B’s compliance with the applicable Zoning Code.

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

City of Broken Arrow Zoning Ordinance, Section 6-3-5.3: Appeals

Subsec. 6-3-5.3: Appeals

- A. Specific Review Criteria.** Recommendations and final decisions shall be based on applicable criteria, including the following :
1. *Record and Evidence.* The administrative decision was appropriate considering the written record of the case and the evidence presented; and
 2. *Ordinance Requirements.* The decision reflects the requirements contained in this Ordinance.
- B. Specific Review Procedures.**
1. *Routes of Appeals.*
 - a. *Administrative Decisions.* All administrative final 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.
 - b. *Planning Commission Decisions.* Final decisions made by the Planning Commission based upon this Ordinance may be appealed to the City Council.
 - c. *Board of Adjustment or City Council Decisions.* Final decisions made by the Board of Adjustment or the City Council based upon this Ordinance may be appealed to a court of competent jurisdiction.
 2. *Transmission of Records.* The Director shall transmit all of the documents constituting the record of the appealed action to the entity to which the decision is being appealed.
 3. *Burden of Proof in Appeals.* The appellant shall present sufficient evidence and have the burden to justify a reversal of the decision being appealed. For Administrative decisions, the Board of Adjustment shall presume the final decision being appealed to be valid.
- C. Effect.**
1. *Stay of Proceedings.* An appeal of any order, requirement, decision, or determination shall stay all proceedings unless the Administrator certifies that a stay would cause imminent peril to life or property.
 2. *No Variance.* A decision on an appeal decision cannot grant or issue a Variance.

Effective Date: 7/1/2025