

City of Broken Arrow

Meeting Agenda

Planning Commission

Chairperson Lee Whelpley

Vice Chair Ricky Jones

Member Fred Dorrell

Member Jaylee Klempa

Member Julea' Merriott (pending City Council appointment)

Thursday, October 8, 2020

5:00 PM

**Council Chambers
220 South First Street
Broken Arrow, OK 74012**

1. Call To Order

2. Roll Call

3. Old Business

4. Consideration of Consent Agenda

- A. [20-1262](#) Approval of Planning Commission meeting minutes of September 24, 2020

Attachments: [09 24 2020 Planning Commission Minutes](#)

- B. [20-1256](#) Approval of BAL-2099CB (Lot Combination), Primrose School of Broken Arrow, 2 Lots, 2.21 acres, one-quarter mile east of Aspen Avenue (145th East Avenue), south of Albany Street (61st Street)

Attachments: [2-Case Map](#)
[3-Aerial](#)
[4-Exhibit](#)
[5-The Park at Greenway Plat](#)

- C. [20-1255](#) Approval of PT20-110, Preliminary Plat, Bricktown East, 23.5 acres, 92 Lots, CG and IL to PUD-318/RS-4, one-quarter mile north of Kenosha Street (71st Street), one-quarter mile west of Aspen Avenue (145th E. Avenue)

Attachments: [2-CHECKLIST](#)
[3-PRELIMINARY PLAT AND CONCEPTUAL UTILITY PLAN](#)

- D. [20-1259](#) Approval of PT20-114, Preliminary Plat, Presley Reserve, 40.20 acres, A-1 (Agricultural) to RS-3 (Single-Family Residential), south of Tucson Street (121st Street), one-half mile west of Aspen Avenue (145th East Avenue)

Attachments: [2-Checklist](#)
[3-Preliminary Plat, Covenants and Conceptual Utilities](#)

5. Consideration of Items Removed from Consent Agenda

6. Public Hearings

- A. [20-1247](#) Public hearing, consideration, and possible action regarding BACP-172 (Comprehensive Plan Change), Robson North, 69.47 acres, Level 2, Level 3, Level 4, and Greenway/Floodplain to Level 2 and Greenway/Floodplain, generally located one-eighth mile north of Kenosha Street (71st Street), one-quarter mile east of 65th Street (241st E. Avenue/Oneta Road)

Attachments: [2-CASE MAP.BACP-172](#)
[3-AERIAL.BACP-172](#)
[4-COMP PLAN.BACP-172](#)
[5-COMP PLAN EXCERPT.FOREST RIDGE AREA TOWN CENTER](#)

- B. [20-1248](#) Public hearing, consideration, and possible action regarding PUD-47H (Planned Unit Development), Cloudi Mornings, 0.21 acres, PUD-47/CG/IL to PUD-47H/CG/IL, located one-quarter mile south of Albany Street (61st Street), one-half mile west of Olive Avenue (129th E. Avenue)

Attachments: [2-CASE MAP.PUD-47H](#)
[3-AERIAL.PUD-47H](#)
[4-COMP PLAN.PUD-47H](#)
[5-DESIGN STATEMENT FOR PUD 47H](#)
[6-DESIGN STATEMENT FOR PUD-47](#)
[7-CASE MAPS FOR BAZ-432 AND BAZ-622](#)
[8-NOVEMBER 19, 2019, OKLAHOMA SUPREME COURT RULING](#)
[9-SEPTEMBER 1, 2020 EMAIL FROM AUSTIN MILLER](#)

- C. [20-1249](#) Public hearing, consideration, and possible action regarding PUD-94V (Planned Unit Development) and BAZ-2066, Aspen Circle, 6.90 acres, PUD-94/CG to PUD-94V/CH and IL, located north of the Broken Arrow Expressway, south of Albany Drive, and east of Aspen Avenue (145th E. Avenue)

Attachments: [2-CASE MAP.PUD 94V & BAZ 2066](#)
[3-AERIAL.PUD 94V & BAZ 2066](#)
[4-COMP PLAN.PUD 94V & BAZ 2066](#)
[5-DESIGN STATEMENT.09-21-2020](#)

- D. [20-1257](#) Public hearing, consideration, and possible action regarding PUD-276A (Planned Unit Development Minor Amendment), Timber Ridge Cottages, 8.05 acres, RM/PUD-276, one-quarter mile south of Kenosha Street (71st Street), east of 37th Street (209th E Avenue)

Attachments: [2-Case Map](#)
[3-Aerial](#)
[4-PUD-276A DESIGN STATEMENT](#)
[5-PUD-276A EXHIBIT](#)

- E. [20-1258](#) Public hearing, consideration, and possible action regarding BAZ-2068 (Rezoning), Medwise Urgent Care South, 29.18 acres, A-1 (Agricultural)/SP-270 (Specific Use Permit) to CN (Commercial Neighborhood) and ON (Office Neighborhood), south of the Creek Turnpike, east of Elm Place (161st East Avenue)

Attachments: [2-CASE MAP](#)
[3-AERIAL](#)
[4-COMPREHENSIVE PLAN](#)
[5-EXHIBIT](#)

7. Appeals

8. General Commission Business

- A. [20-1207](#) Consideration and possible approval of the 2021 Planning Commission meeting and calendar schedule

Attachments: [2021 PC MEETING DATES](#)

9. Remarks, Inquiries and Comments by Planning Commission and Staff (No Action)

10. Adjournment

NOTICE:

1. ALL MATTERS UNDER “CONSENT” ARE CONSIDERED BY THE PLANNING COMMISSION TO BE ROUTINE AND WILL BE ENACTED BY ONE MOTION. HOWEVER, ANY CONSENT ITEM CAN BE REMOVED FOR DISCUSSION, UPON REQUEST.

2. IF YOU HAVE A DISABILITY AND NEED ACCOMMODATION IN ORDER TO PARTICIPATE IN THE MEETING, PLEASE CONTACT THE COMMUNITY DEVELOPMENT DEPARTMENT AT 918-259-8412, TO MAKE ARRANGEMENTS.

3. EXHIBITS, PETITIONS, PICTURES, ETC. PRESENTED TO THE PLANNING COMMISSION MAY BE RECEIVED AND DEPOSITED IN CASE FILES TO BE MAINTAINED AT BROKEN ARROW CITY HALL.

4. RINGING/SOUND ON ALL CELL PHONES AND PAGERS MUST BE TURNED OFF DURING THE PLANNING COMMISSION MEETING.

POSTED on _____, _____ at _____ am/pm.

City Clerk.



City of Broken Arrow

Request for Action

File #: 20-1262, **Version:** 1

**Broken Arrow Planning Commission
10-08-2020**

To: Chairman and Commission Members
From: Development Services Department

Title: Approval of Planning Commission meeting minutes of September 24, 2020

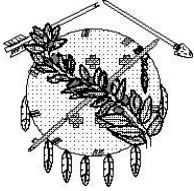
Background: Minutes recorded for the Broken Arrow Planning Commission meeting.

Attachments: 09 24 2020 Planning Commission Minutes

Recommendation: Approve minutes of Planning Commission meeting held September 24, 2020.

Reviewed By: Jill Ferenc

Approved By: Larry R. Curtis



City of Broken Arrow

Minutes Planning Commission

City Hall
220 S 1st Street
Broken Arrow OK
74012

Chairperson Lee Whelpley
Vice Chairperson Ricky Jones
Commission Member Fred Dorrell
Commission Member Mark Jones
Commission Member Jaylee Klempa

Thursday, September 24, 2020

Time 5:00 p.m.

Council Chambers

1. Call to Order

Chairperson Lee Whelpley called the meeting to order at approximately 5:00 p.m.

2. Roll Call

Present: 5 - Jaylee Klempa, Fred Dorrell, Mark Jones, Ricky Jones, Lee Whelpley

3. Old Business

There was no Old Business.

4. Consideration of Consent Agenda

Staff Planner, Amanda Yamaguchi, presented this Item.

- A. 20-1169** Approval of Planning Commission meeting minutes of September 10, 2020
- B. 20-1173** Approval of BAL-2096 and BAL-2097CB, Lot 6, Block 1 Wickford at Forest Ridge and Reserve C Wickford at Forest Ridge, 0.65 acres for Lot 6, Block 1 and 0.09 acres for Reserve C, R-1/PUD-66, one-third mile north of Houston Street (81st Street), one-half mile east of 65th Street (Oneta Road)
- C. 20-1108** Approval of BAL-2098, Chalmers Auto Mall Lot Split, 2 Lots, 16.66 acres, PUD-44A/CH and CG, southeast corner of Albany Street (61st Street) and Aspen Avenue 145th E. Avenue)
- D. 20-1178** Approval of BAL-2100 (Lot Split), Center for the Arts, 1 Lot, 0.07 acres, one-quarter mile north of Houston Street (81st Street), west of Main Street at 320 South Main Street
- E. 20-1179** Approval of BAL-2101CB (Lot Combination), Center for the Arts, 1 Lot, 0.07 acres, one-quarter mile north of Houston Street (81st Street), west of Main Street at 320 South Main Street
- F. 20-1177** Approval of PT20-111, Preliminary Plat, The Colony at Cedar Ridge, 78.12 acres, A-1 (Agricultural) to RS-3 (Single-Family Residential)/CM (Community Mixed-Use) and (Planned Unit Development) PUD-301, south of New Orleans Street (101st Street), one-quarter mile east of Olive Avenue (129th East Avenue)
- G. 20-1187** Approval of PT20-113 preliminary plat, Park Place, 80.23 acres, 259 Lots, A-1 to PUD-304/RS-3, one-quarter mile north of Kenosha Street (71st Street), east of 79th Street (257th E. Avenue/Midway Road)
- H. 20-1184** Approval of PT15-117C, Conditional Final Plat, Ninety One - Phase 4, 24.58 acres, 76 lots, A-1 to RS-3, one-half mile east of 9th Street (Lynn Lane/177th E. Avenue), north of Washington Street (91st Street)

Ms. Yamaguchi indicated the applicants were in agreement with the Staff Reports.

Chairperson Whelpley asked if there were any items to be removed from the Consent Agenda. Vice Chairperson Ricky Jones indicated his firm prepared the preliminary plat for the Colony at Cedar Ridge; therefore, he would need to recuse himself from Item 4F. Chairperson Whelpley noted Ms. Yamaguchi requested Item 4C be removed from the Consent Agenda. He asked if there were any other items to be removed from the Consent Agenda; there were none. He explained the Consent Agenda consisted of routine items, minor in nature, and was approved in its entirety with a single motion and a single vote, unless an item was removed for discussion.

MOTION: A motion was made by Ricky Jones, seconded by Jaylee Klempa.

Move to approve the Consent Agenda less Items 4C and 4F per Staff recommendations

The motion carried by the following vote:

Aye: 5 - Jaylee Klempa, Fred Dorrell, Mark Jones, Ricky Jones, Lee Whelpley

Chairperson Whelpley indicated Item 4H would go before City Council on October 20, 2020 at 6:30 p.m.

5. Consideration of Items Removed from Consent Agenda

Senior Planner Brent Murphey reported Item 4C was a lot split into two lots. He indicated

Staff recommended approval subject to warranty deed submission, landscape plan modification to code, and a mutual access be provided. He stated the applicant was in agreement with Staff. He explained the applicant wished to show Planning Commission what was planned in this location. He noted this was a prime, highly visible property site in Broken Arrow.

The applicant Roman Albert stated his address was at 61st and 145th Avenue. He made a brief presentation regarding the intended development for this property including landscaping with evergreen plants and seasonal color plants, as well as new trees (red buds, crepe myrtles and maple trees). He noted a common area easement would be supplied for the lot split. He noted he hoped his plans would exceed the Broken Arrow landscaping requirements. He intended to make this a beautiful corner.

MOTION: A motion was made by Jaylee Klempa, seconded by Mark Jones.

Move to approve Item 4C per Staff recommendation

The motion carried by the following vote:

Aye: 5 - Jaylee Klempa, Fred Dorrell, Mark Jones, Ricky Jones, Lee Whelpley

Vice Chairperson Ricky Jones left the Chamber for discussion and vote on Item 4F. He returned following the vote.

MOTION: A motion was made by Fred Dorrell, seconded by Jaylee Klempa.

Move to approve Item 4F per Staff recommendation

The motion carried by the following vote:

Aye: 4 - Jaylee Klempa, Fred Dorrell, Mark Jones, Lee Whelpley

Recused: 1 - Ricky Jones

6. Public Hearings

A. 20-1165 Public hearing, consideration, and possible action regarding PUD-288A (Planned Unit Development Minor Amendment), Villages at 1Eleven, 8.95 acres, A-1 to CM and PUD-288, located north of the northwest corner of Florence Street (111th Street) and Aspen Avenue (145th E Avenue)

Ms. Amanda Yamaguchi reported Planned Unit Development (PUD)-288A, minor amendment to PUD-288, involved an 8.95-acre undeveloped tract located north of the northwest corner of Florence Street (111th Street) and Aspen Avenue (145th E Avenue). She stated PUD-288 and BAZ-2024 were approved on this property by the City Council on June 17, 2019. She explained with this minor amendment, the applicant was requesting to increase the maximum height of buildings within a portion of Development Area A to three stories, not to exceed 40-feet. She stated architectural features such as chimneys and cupolas may extend beyond 40-feet to a maximum height of 50-feet. She noted in the previously approved PUD, the maximum building height was restricted to 35-feet with architectural features allowed to extend up to 45-feet. She reported all other provisions of PUD-288 would remain as previously approved. She stated based on the Comprehensive Plan, location of the property and the surrounding land uses, Staff recommended PUD-288 be approved subject to the property being platted.

Vice Chairperson Ricky Jones recused himself for this Item, as well as Item 6B. He left the Chambers and returned following the vote for Item 6B.

The applicant, Erik Enyart, with Tanner Consulting, address 5323 S. Lewis Avenue, Tulsa, indicated he was in agreement with Staff recommendations. He noted the site design was changed; buildings were moved further back from the road. He indicated in this particular location this property was the only property limited to 35-feet in height.

Commissioner Klempa asked if there would be added residential units with the increased height of the building. Mr. Enyart responded in the negative; he was still limited to the number of residential units indicated in the PUD.

Chairperson Whelpley opened the public hearing.

Citizen Greg Genua, address 4329 S. Chestnut Avenue, Broken Arrow, stated he was opposed to PUD-288. He noted there was opposition to this development last year as well. He indicated there were many citizens who would be affected by this development and were in opposition. He noted the previous objections were clearly stated and he felt the objections were ignored. He stated there was a conflict of interest and while Vice Chairperson Ricky Jones recused himself from the discussion he did not have confidence there had not been side discussions amongst the City Council regarding this property, the development, and the plan as stated. He asked for the City to set aside this decision until the citizens directly affected by this project had an opportunity to review and understand exactly what was being proposed. He stated he understood the developer sold off portions of the original 29 acres which caused him to question the developer's financial stability and ability to build according to the original plan submitted and approved by Planning Commission and City Council. He noted

only one sign was set out for this development notifying the public and he felt more time was needed for the public to assess the situation.

Planning and Development Manager Jill Ferenc explained one sign was required to be posted 10 days prior to the public hearing, letters were required to be sent out 20 days prior to the public hearing, and newspaper notice was required 20 days prior to the public hearing.

Chairperson Whelpley asked if letters were sent out to the surrounding residents. Ms. Jill Ferenc responded in the affirmative; minor amendments only required noticed to be mailed to residents within a 100-foot radius of the property.

Chairperson Whelpley asked if Mr. Genua had been contacted by the applicant regarding the changes. Mr. Genua responded in the negative; to his knowledge there had been no communications from the City or the developer aside from the small sign posted on the property. Chairperson Whelpley asked if Mr. Genua was asking for a continuation. Mr. Genua responded in the affirmative.

Ms. Yamaguchi reported for a minor amendment only abutting property owners were required to be given mailed notice. Ms. Ferenc explained normally with a rezoning case, or a new PUD, or a major amendment to a PUD, the buffer area for mailed notice was 300 feet. She stated only one sign was required along a public street frontage. She indicated all required notice was mailed and posted. She noted the minor amendment was only a height increase request of 5 feet; from 35 feet to 40 feet in building height and an extra 5 feet in height for accessory structures (such as chimneys). She indicated the original design had a maximum of 35 feet in building height; the new design showed a building height of 37.5 feet.

Chairperson Whelpley closed the public hearing.

The applicant, Mr. Enyart, stated this was a very lengthy Planned Unit Development which went through multiple public hearings and the neighborhood was very aware of the project. He indicated many different ideas went into the project and he felt it was excellent. He stated this was a small component of the overall project; this was a development area entitled for multiple family. He noted buildings were being pulled away from the edges as compared with the original design. He indicated the only reason for the small increase in height was for one central building which would have a clubhouse within. He requested approval of the minor amendment.

MOTION: A motion was made by Mark Jones, seconded by Fred Dorrell.

Move to approve Item 6A per Staff recommendation

The motion carried by the following vote:

Aye: 4 - Jaylee Klempa, Fred Dorrell, Mark Jones, Lee Whelpley
Recused: 1 - Ricky Jones

B. 20-1166 Public hearing, consideration, and possible action regarding BAZ-2063 (Rezoning), 121st Street Rezoning, 40 acres, A-1 (Agricultural) to RS-3 (Single-Family Residential), south of Tucson Street (121st Street), one-half mile west of Aspen Avenue (145th East Avenue)

Ms. Yamaguchi reported BAZ-2063 was a request to change the zoning designation on a 40-acre tract from A-1 (Agricultural) to RS-3 (Single-Family Residential). She stated the unplatted and undeveloped property was located south of Tucson Street (121st Street), one-half mile west of Aspen Avenue (145th East Avenue). She noted the developer was interested in developing single-family residential homes on the property. She indicated this property was in Level 2 (Urban Residential) of the Comprehensive Plan and RS-3 was considered to be in accordance with the Comprehensive Plan in Level 2. She reported according to the FEMA maps, none of the property was located in a 100-year floodplain area. She stated based on the Comprehensive Plan, the location of the property, and the surrounding land uses, Staff recommended BAZ-2063 be approved, subject to the property being platted.

The applicant, Erik Enyart, with Tanner Consulting, address 5323 S. Lewis Avenue, Tulsa, stated he was in agreement with Staff recommendations. He noted this property was surrounded by existing RS-3 zoning or approved RS-3 zoning. He requested approval.

Chairperson Whelpley opened the public hearing.

Citizen Michael Tobler stated his address was 2620 W. Union Place, Broken Arrow. He noted the back of his home bordered the property in question. He stated he was concerned regarding the back of his property which steeply inclined up towards this property. He asked if the development would lower this incline or if the development would be constructed at the higher level. He noted there was much wild growth on the property directly behind his property and it was a problem area. He indicated he was worried this area of overgrowth would become an easement area. He asked who would be responsible for the land if was

considered an easement. He noted there were utilities on the property. He stated he felt this land was not taken care of properly when his neighborhood was developed; the developer dropped sod on top of live poison ivy vines which were never eradicated.

Mr. Ferenc indicated this development was in the first stage (zoning). She noted a preliminary plat had been submitted, however. She stated City Staff would contact Mr. Tobler and share the preliminary plat which would come before Planning Commission in the next phases of development. She indicated the preliminary plat would give Mr. Tobler an idea of what was planned for the property. She stated if there were easements, typically it was the responsibility of the property owner to maintain the easement. She stated reserve areas were typically the responsibility of the subdivision's HOA.

Chairperson Whelpley closed the public hearing.

MOTION: A motion was made by Fred Dorrell, seconded by Mark Jones.

Move to approve Item 6B per Staff recommendation

The motion carried by the following vote:

Aye: 4 - Jaylee Klempa, Fred Dorrell, Mark Jones, Lee Whelpley
Recused: 1 - Ricky Jones

Chairperson Whelpley indicated this Item would go before City Council on October 20, 2020 at 6:30 p.m. He noted if any wished to speak at the City Council Meeting completion of a Request to Speak form was required.

C. 20-1167 Public hearing, consideration, and possible action regarding PUD-317 (Planned Unit Development), Tytan Station, R-3 (Single-Family Residential), Downtown Residential Overlay District (DROD) Area 5, located at the southeast corner of Fort Worth Street and 1st Street

Ms. Yamaguchi reported Planned Unit Development (PUD)-317 involved a 0.33-acre lot located at the southeast corner of Fort Worth Street and 1st Street. She stated the property was platted as Lots 7-10, Block 70, Original Town of Broken Arrow. She noted the applicant proposed to develop the property as four single-family, detached homes; the lots were planned to be reconfigured to allow all proposed structures to face 1st Street. She noted access to lots 1 and 2 were proposed to be from Fort Worth Street and access to lots 3 and 4 would be through a platted alley immediately south of this property. She stated interior lots would be accessible through shared driveway access provided with a mutual access agreement between properties. She reported Tytan Station was proposed to be developed in accordance with the City of Broken Arrow Zoning Ordinance and the use and development regulations of the Downtown Residential Overlay District, except as summarized in the Staff Report. She stated the applicant provided an update to the site layout this morning and the only change was lots 3 and 4 now had a minimum size of 3,353 square feet and 3,295 square feet, respectively. She noted this change would be reflected in the City Council Staff Report.

Ms. Yamaguchi indicated according to Section 6.4 of the Zoning Ordinance, the PUD provisions were established for one or more of six purposes and in Staff's opinion, PUD-317 satisfied item 1 of Section 6.4.A of the Zoning Ordinance: To permit and encourage innovative land development while maintaining appropriate limitation on the character and intensity of use and assuring compatibility with adjoining and proximate properties. She noted the development of this site as single family detached homes was consistent with surrounding properties in the area; the PUD allowed for reconfiguration of lots to allow for better home layout without increasing the number of lots.

She stated based upon the Comprehensive Plan, the location of the property, and the surrounding land uses, Staff recommended PUD-317 be approved, subject to the following: 1) Utility easements being provided as needed to provide utility service to all lots. 2) Lot consolidation and lot split applications being approved by the Planning Commission for the reconfiguration of the lots as shown in the PUD exhibits. 3) Document numbers for filed mutual access easements being included on the building permit applications.

The applicant, Nick Parker, address 304 E. Commercial Street, Broken Arrow, indicated he was in agreement with Staff recommendations.

Chairperson Whelpley noted no citizens signed up to speak regarding Item 6C.

MOTION: A motion was made by Ricky Jones, seconded by Jaylee Klempa.

Move to approve Item 6C per Staff recommendation

The motion carried by the following vote:

Aye: 5 - Jaylee Klempa, Fred Dorrell, Mark Jones, Ricky Jones, Lee Whelpley

Chairperson Whelpley indicated this Item would go before City Council on October 20, 2020 at 6:30 p.m.

Public hearing, consideration, and possible action regarding BACP-131A (Comprehensive Plan Change), Level 1 (Rural Residential) to Level 3 (Transition Area), Oak Pond, 6.1 acres, A-1 (Agricultural), north of Washington Street (91st Street), one-quarter mile west of 9th Street (177th E. Avenue)

Jane Wyrick, Planner II, reported BACP-131A was a request to change the Comprehensive Plan designation from Level 1 (Rural Residential) to Level 3 (Transition Area). She stated the 6.1-acre property was located north of Washington Street (91st Street), one-quarter mile west of 9th Street (177th E. Avenue); the property, which was unplatted, was currently zoned A-1 (Agricultural). She noted in 1982 this property was rezoned from single family to multifamily at Level 3. She noted later in 2014 a Comprehensive Plan amendment was conditionally approved to change the land use designation for a 6.46-acre site from Level 3 (Transition Area) to Level 1 (Rural Residential) and a request to rezone the property (BAZ-1900) from RM (Residential, Multifamily) to A-1 (Agriculture), as well as a Specific Use Permit (SP-273) for horticultural nursery sales. She stated with BACP-131A, the applicant requested approval to amend the Comprehensive Plan land use designation from Level 1 (Agricultural) to Level 3 (Transition Area). She noted the property owner planned to sell the property and wished to market the property as Level 3. She noted while a draft Planned Unit Development document was not submitted with this request, Staff anticipated receiving a rezoning request should the Comprehensive Plan amendment be approved. She noted should these requests be approved, the Specific Use Permit (SP-273) for horticultural nursery sales would need to be abrogated. She reported a blue line stream was located on the site and the area across the street to the south of Washington Street was mapped as 100-year floodplain. She noted Staff anticipated a study of this project site would result in some areas of floodplain on the site. She noted based on the gross acreage of the site a maximum potential of multifamily dwelling units was 121 units; however, not all of the site was developable; therefore, once the flood plain was mapped and the actual developable area identified, a more accurate amount of potential dwelling units would be determined. She stated based upon the location of the property, the existing and surrounding land uses, surrounding designations in the Comprehensive Plan's future development guide, Staff recommended approval of BACP-131A, subject to the following conditions of approval: 1) Rezoning of the property from A-1 (Agriculture) to RM (Residential, Multifamily). 2) The property shall be platted in accordance with the Land Subdivision Code and the Engineering Design Criteria Manual including dedication of required rights-of-way and utility easements. 3) Applicant to map the limits of the FEMA floodplain. Areas identified as floodplain shall be zoned FD (Floodplain) in conjunction with the future rezoning request. 4) Applicant to abrogate SP-273 in conjunction with a future rezoning request for the property.

The applicant, Heather Caputo, address 524 S. Main Street, Broken Arrow, stated she was in agreement with Staff Report. She noted this request was for the property to be returned to its original Comprehensive Plan Level designation. She noted there were a couple of interested parties who wished to develop high-end single-family homes in this location.

Chairperson Whelpley opened the public hearing.

Citizen Edna Osborn stated her address was 2301 S. 7th Street, Broken Arrow. She noted she was neither in favor nor opposed to this development as she had not seen anything showing what would be done. She noted her neighborhood had been experiencing flooding from the property located behind her home for over 14 years. She noted she had reported this problem to the City multiple times and provided documentation. She explained why she felt there was flooding. She asked if this potential development would improve her neighborhood flooding. She asked if proper guttering would be provided. She discussed the developer of Meadow Homes and Windsor Homes stating she felt he was a poor builder and should be removed from the list of accepted builders in Broken Arrow. She discussed the individuals she felt were good builders noting good builders installed proper gutters and stormwater drainage.

Vice Chairperson Ricky Jones explained this Item was consideration of a change in the Comprehensive Plan for this property which was the first step in the development process. He noted assuming the Comprehensive Plan change was approved, an interested developer would be required to submit a rezoning application and possibly a PUD; if this were approved then the developer would enter into the platting and engineering process. He explained during the engineering stage the City stringently reviewed the engineering plans for stormwater drainage. He noted if development did occur on this property the City would review the surrounding area, consider the current drainage condition, and try to improve the situation.

Ms. Osborn asked if the change in the Comprehensive Plan would increase her property taxes. She asked how a Comprehensive Plan change would affect her property.

Ms. Ferenc indicated Ms. Osborn could contact the Assessor's Office as a point of reference for any valuation questions.

Chairperson Whelpley asked if this would be coming back before Planning Commission in

the future. Ms. Wyrick responded in the affirmative; it would come back before Planning Commission for rezoning, PUD, and platting.

Chairperson Whelpley closed the public hearing.

MOTION: A motion was made by Fred Dorrell, seconded by Mark Jones.

Move to approve Item 6D per Staff recommendation

The motion carried by the following vote:

Aye: **5 -** Jaylee Klempa, Fred Dorrell, Mark Jones, Ricky Jones, Lee Whelpley

Chairperson Whelpley indicated this Item would go before City Council on October 20, 2020 at 6:30 p.m.

E. 20-1171 Public hearing, consideration, and possible action regarding BACP-171 (Comprehensive Plan Change), Level 3 (Transition Area) and Level 6 (Regional Employment/Commercial) to Level 3 (Transition Area), Bricktown East, 23.5 acres, CG (Commercial General) and IL (Industrial Light), one-quarter mile north of Kenosha Street (71st Street), one-quarter mile west of Aspen Avenue (145th E. Avenue)

Ms. Jane Wyrick reported BACP 171 was a request to change the Comprehensive Plan designation from Level 3 (Transition Area) and Level 6 (Regional Employment/Commercial) to Level 3 for a proposed single-family residential development on 23.5 acres located one-quarter mile north of Kenosha Street (71st Street), one-quarter mile west of Aspen Avenue (145th E. Avenue); the property, which was vacant and unplatted, was currently zoned CG (Commercial General) and IL (Industrial Light). She reported in 2008, the Planning Commission recommended approval (3-1 vote) of a request to amend the Comprehensive Plan land use designation (BACP-94) on this site from Level 3 and Level 6 to Level 3 for a 264-unit, four-story multifamily housing project. She noted the request was heard by the City Council on April 15, 2008 where it was tabled to allow the applicant to consider a PUD process and to prepare a traffic study after several residents expressed concern about traffic, the size of the proposed four-story, high-density buildings, and the lack of a buffer between single-family and the multi-family development. She indicated the applicant did not move forward with the request. She explained at the time of the amendment request, the property had included 100-year floodplain; however, a draft update of the FEMA map no longer indicated any 100-year floodplain on the site, and the map was later approved. She stated with BACP-171, the applicant requested approval to amend the Comprehensive Plan land use designation from Level 3 (Transition Area) and Level 6 (Regional Employment/Commercial) to Level 3 for a single-family residential development. She indicated in conjunction with BACP-171, the applicant submitted a Planned Unit Development (PUD-318) for Bricktown East that included 92 residential lots in a gated community with private streets. She stated a preliminary plat was submitted and was scheduled for the October 8, 2020 Planning Commission meeting. She reported the site included an existing sanitary sewer easement in the northeast, and a gas line easement along the south boundary. She stated a fifty-foot setback was required from pipelines which would be reviewed as part of the PUD and platting process. She noted the adjacent properties to the south had reserve areas for drainage along the south boundary of this site. She stated Table 4.1-5 of the Zoning Ordinance indicated the minimum gross land area per dwelling unit in the RS-4 zoning district was 7,875 square feet; based on this, a potential 130 units could be built on 23.51 acres. She stated based on the location of the property and the existing surrounding land uses, Staff recommended approval of BACP-171 subject to the following conditions of approval: 1) Approval of the rezoning of the property from CG and IL zoning designations to RS-4/PUD-318. 2) The property shall be platted in accordance with the Land Subdivision Code and the Engineering Design Criteria Manual including the dedication of required rights-of-way and utility easements.

The applicant, Jim Beach, with Wallace Engineering, address 123 Martin Luther King Jr Blvd, stated he was in agreement with Staff recommendations.

Chairperson Whelpley noted no citizens signed up to speak regarding this Item.

MOTION: A motion was made by Fred Dorrell, seconded by Jaylee Klempa.

Move to approve Item 6E per Staff recommendation

The motion carried by the following vote:

Aye: **5 -** Jaylee Klempa, Fred Dorrell, Mark Jones, Ricky Jones, Lee Whelpley

Chairperson Whelpley indicated this Item would go before City Council on October 20, 2020 at 6:30 p.m.

F. 20-1172 Public hearing, consideration, and possible action regarding PUD-318 (Planned Unit Development) and BAZ-2064 (Rezoning), Bricktown East, 23.5 acres, CG (Commercial General) and IL (Industrial Light) to PUD-318/RS-4 (Single-family Residential), located one-quarter mile north of Kenosha Street (71st Street), one-quarter mile west of Aspen Avenue (145th E. Avenue)

Ms. Wyrick reported Planned Unit Development (PUD)-318 and BAZ-2064 (Rezoning) involved a 23.5-acre parcel located one-quarter mile north of Kenosha Street (71st Street), one-quarter mile west of Aspen Avenue (145th E. Avenue); the property, which was vacant and unplatted, was currently zoned CG (Commercial General) and IL (Industrial Light). She noted this was the PUD and rezoning request attached to Item 6E previously discussed. She reported with PUD-318, the applicant was proposing a single-family detached residential development with up to 95 lots. She reported the primary point of access would be from Elder Place with gated access leading to private streets. She noted an exit only access point was proposed on the east side of the site off of Lansing Avenue leading to Aspen Avenue. She indicated two additional stub streets were proposed for future access to the north; one of these were proposed at the intersection of Oakland Place and the other was adjacent to an undeveloped property to the north. She stated a landscape edge was proposed along the Elder Place street frontage as well as a landscaped entry. She noted the applicant proposed a capped wood fence with columns every 60 feet along Elder Place. She reported with BAZ-2064, the applicant proposed to rezone the property from CG (Commercial General) and IL (Industrial Light) to RS-4 (Single-family Residential). She noted development proposed a reserve area for on-site stormwater detention along the south boundary that was being reviewed in conjunction with the plat (PT20-110). She stated should the Comprehensive Plan Amendment be approved the property associated with PUD-318 would be designated as Level 3 in the Comprehensive Plan and single family residential as proposed with PUD-318 was considered to be in conformance with the Comprehensive Plan in Level 3.

Ms. Wyrick reported in Staff’s opinion, PUD-318 satisfied items 1, 2 and 5 of Section 6.4.A of the Zoning Ordinance: 1) PUD-318 limits the total number of units to 95, which was less than the 130 units allowed by the Zoning Ordinance, thereby limiting the intensity of use. 2) The landscape edge along Elder Place provided a public benefit, and the landscape buffer adjacent to industrial uses was a benefit to residents who would reside in those homes. The addition of a trail was an amenity for future residents. 5) Sidewalks would be provided throughout the neighborhood in accordance with the Subdivision Regulations making the neighborhood accessible. She noted according to FEMA maps, none of the property was located in the 100-year floodplain. She indicated the applicant claimed there was no blue line stream traversing the property; however, there were wetlands to the northeast and a flood plain to the southwest and some study would need to be completed to determine how the drainage should be addressed. She stated based on the Comprehensive Plan, location of the property and the surrounding land uses, Staff recommended BAZ-2064 and PUD-318 be approved subject to the approval of the Comprehensive Plan Amendment.

The applicant, Jim Beach, with Wallace Engineering, address 123 Martin Luther King Jr Blvd, stated he was in agreement with the Staff recommendations.

Vice Chairperson Ricky Jones stated this looked like an excellent development; he was impressed.

Chairperson Whelpley indicated no citizens requested to speak regarding this Item.

MOTION: A motion was made by Ricky Jones, seconded by Jaylee Klempa.

Move to approve Item 6F per Staff recommendation

The motion carried by the following vote:

Aye: 5 - Jaylee Klempa, Fred Dorrell, Mark Jones, Ricky Jones, Lee Whelpley

Chairperson Whelpley indicated this Item would go before City Council on October 20, 2020 at 6:30 p.m.

G. 20-1182 Public hearing, consideration, and possible action regarding PUD-319 (Planned Unit Development) and BAZ-2065 (Rezoning), City PUD, approximately 20 acres, one-half mile south of Florence Street (111th Street), east of Aspen Avenue (145th East Avenue), north of the Creek Turnpike

Ms. Yamaguchi reported PUD-319 and BAZ-2065 was a request to change the zoning designation on an approximately 20-acre tract of land from R-2 to CH (Commercial Heavy) and RM (Residential Multi-Family)/PUD-319. She noted the west approximately 10-acres was proposed to be rezoned to CH and the east approximately 10-acres was proposed to be rezoned to RM. She noted the undeveloped property was located one-half mile south of Florence Street (111th Street), east of Aspen Avenue (145th East Avenue), north of the Creek Turnpike. She reported the City currently owned the property through the Broken Arrow Economic Development Authority; in order to make the property more marketable for future mixed-use, residential, and commercial development, a rezoning was necessary to allow for these potential uses. She stated PUD-319 was proposed to be developed in accordance with the City of Broken Arrow Zoning Ordinance and the use and development regulations of the CH and RM districts, with the following exceptions: 1) Front setbacks on commercial lots shall be reduced from 50-feet to 30-feet; and 2) Within required landscape edges, the number of trees shall be increased from 1 per 50 linear feet to 1 per 30 linear feet, along all frontages which abut the arterial street or frontage road. She stated PUD-319 included requirements for

a frontage road to parallel the Creek Turnpike and a trail connection between Liberty Trail and the existing Windsor Oak Estates neighborhood to the northeast. She stated based on the Comprehensive Plan, Staff recommended PUD-319 and BAZ-2065 be approved subject to the property being platted.

The applicant, Ms. Jill Ferenc (the City of Broken Arrow), stated the PUD took into account long range plans and incorporated planning for the frontage road which would run east to west along the turnpike to the north, as well as trail connections, per the INCOG plan the City adopted, and also allowed for blended development between commercial and residential.

Chairperson Whelpley indicated no citizens signed up to speak regarding this Item.

MOTION: A motion was made by Fred Dorrell, seconded by Jaylee Klempa.

Move to approve Item 6G per Staff recommendation

The motion carried by the following vote:

Aye: 5 - Jaylee Klempa, Fred Dorrell, Mark Jones, Ricky Jones, Lee Whelpley

Chairperson Whelpley indicated this Item would go before City Council on October 20, 2020 at 6:30 p.m.. (Under Item 9:Remarks, Inquiries and Comments by Planning Commission and Staff, Jill Ferenc updated and clarified that this Item will go before the City Council on the October 6, 2020 Meeting.)

H. 20-1170 Public hearing, consideration, and possible action regarding BACP-170 (Comprehensive Plan Change), Level 2 (Urban Residential), Level 3 (Transition Area) and Level 4 (Commercial/Employment Nodes) to an increased amount of Level 2 and Level 3 and decreased amount of Level 4, Honey Springs at Battle Creek, 75.276 acres, PUD-94Q/A-CG (Annexed-Commercial General), A-RD (Annexed-Residential Duplex) and A-R-3 (Annexed-Single-family Residential), southeast corner of Aspen Avenue (145th E. Avenue) and Dearborn Street (41st Street)

Ms. Wyrick reported BACP-170 was a request to change the Comprehensive Plan designation from Level 2 (Urban Residential), Level 3 (Transition Area) and Level 4 (Commercial/Employment Nodes) to an increased amount of Level 2 and Level 3 and a decreased amount of Level 4 (Commercial/ Employment Nodes) for 75.276 acres located at the southeast corner of Aspen Avenue (145th E. Avenue) and Dearborn Street (41st Street). She reported this project site was part of a larger tract of land which was annexed into Broken Arrow from Tulsa in 1994 as part of the 786.5-acre Battle Creek PUD. She stated along with this PUD was a rezoning subject to platting; some portions of Battle Creek were platted, but this far northern portion had not been platted as of yet. She noted once the platting took place the zoning would be codified. She noted with this request the boundaries for each use area was being changed with the Comprehensive Plan and with the forthcoming rezoning and PUD which would come before Planning Commission in October. She explained as a part of the approval of PUD-94, density limits were established for different types of housing within the development. She noted PUD-94 allowed for translocation of densities and land use areas within the project boundaries. She noted this project site was part of another Comprehensive Plan amendment in 2010 which transferred villas or multifamily housing to a different site north of the Broken Arrow Expressway and east of Aspen Avenue. She noted PUD-94Q was approved in 2010 to decrease the area designated for commercial from 23 acres to 10 acres, for apartments from 23 acres to 6 acres and it amended the use of this area for patio homes; it also increased the area for executive home sites from 28 acres to 60 acres. She noted this approval was subject to the property being platted and with this approval, the density for the property at Aspen Avenue and Dearborn Street was decreased. She explained with BACP-170, the applicant requested approval to modify the configuration of the areas of Levels 2, 3 and 4 due to the topography of the site and the location of existing ponds and blue line streams. She noted in conjunction with BACP-170, the applicant submitted a draft major amendment to PUD-94 and PUD- 94Q (PUD-94W). She indicated the forthcoming PUD amendment and plat would address any required right-of-way and utility easement dedications. She noted all major utilities were available in other phases of the Battle Creek subdivision and would be extended to serve this area. She indicated the topography sloped downhill to the north posing a challenge to serve this area of the site; thus, a sewer lift station would likely be needed to serve this area. She noted Staff had determined with the Comprehensive Plan Amendment, the density would be decreased in this area. She explained since publishing the Staff Report a revised draft PUD was submitted which would bring the number of single-family units from 190 down to 175 and the number of patio home units from 50 down to 44. She stated based on the location of the property and the existing and surrounding land uses, Staff recommended BAZ-170 be approved subject to the following conditions of approval: 1) Approval of the rezoning of the property from “Annexed” zoning designations to those that are in conformance with the current Zoning Ordinance, and approval of a major amendment to PUD-94 and PUD-94Q. 2) The property shall be platted in accordance with the Land Subdivision Code and the Engineering Design Criteria Manual including the dedication of required rights-of-way and utility easements.

Vice Chairperson Ricky Jones noted what was before the Planning Commission was actually

a decrease in density in the number of units. Ms. Wyrick concurred; when Battle Creek was first approved there was a maximum number of units approved for different types of housing. She noted this number was decreased in 2010, and this application reduced the number once again.

Vice Chairperson Ricky Jones noted this piece of property had come before Planning Commission several times.

The applicant Nathan Cross, address 2 West 2nd Street, Suite 700, Tulsa, stated he was in agreement with Staff recommendations. He noted Tim Terrel was also a planner for this project. He explained this was simply a reconfiguration of the layout of the Comprehensive Plan which included a reduction of the commercial development area and replaced the commercial area with single family homes. He explained this was necessary as there was a jurisdictional waterway which ran through this portion of the property which could not be disturbed; therefore, it made sense to reconfigure the property to include a greenbelt and wetlands.

Vice Chairperson Ricky Jones indicated he could understand why this area needed to be reconfigured at this time to accommodate the wetlands.

Chairperson Whelpley asked if Mr. Cross had spoken to any of the surrounding neighborhoods. Mr. Cross responded in the negative; he noted he was happy to discuss the concept with the neighbors. He indicated to his knowledge four phone calls were received regarding this development; there may have been more received. He stated he understood the desire to hear more about the development. He noted this was simply the Comprehensive Plan discussion; the development PUD was not being discussed today.

Vice Chairperson Ricky Jones noted if this Comprehensive Plan amendment were approved there would be new notice given for the rezoning and PUD public hearings.

Chairperson Whelpley opened the public hearing. He stated there was one individual in favor and four opposed who did not wish to speak: in favor was Danny Reed 1933 W. Xenia Street; in opposition were James Sikkema 4600 N. Walnut Street, Blaine Schaaf, 4621 N. Redbud Avenue, Brenda Dutkosky 1713 W. Zillah Street, and Rob Dutkosky 1713 W. Zillah Street.

Chairperson Whelpley asked for speeches to be tailored so as not to repeat the same concerns and objections expressed by others.

Citizen Dave Price, address 2025 W. Woodberry Street, Broken Arrow, stated he was concerned regarding how this would affect his property value, and regarding the affect this development would have on traffic (he discussed high traffic areas near this property). He asked what the price range would be for the new homes and what would be done on 145th Avenue to alleviate the traffic concerns. He noted he did not feel more apartments were needed in the area; this would only increase traffic difficulties. He indicated he was in opposition to this Item.

Citizen Deborah Sikkema, address 4600 N. Walnut Ave, Broken Arrow, stated she was in opposition to development of this land. She noted the land was behind her home and she was concerned about losing the well-developed habitat in the area. She indicated the greenspace was home to many animals, was an excellent ecosystem, was home to dozens of types of birds, and home to deer, rabbit, coyote, beavers, and bobcats. She asked if a wildlife management expert been consulted regarding this property. She stated she was also concerned about the air quality during construction. She noted she and her husband had breathing issues, she was a cancer survivor, and there would be volatile toxic compounds in the air which could cause health issues. She asked why there was no greenspace buffer planned for this property. She indicated the development would begin 35 feet from her back-porch. She asked if she would be required to stay indoors during construction, spray water to reduce dust, and how construction noises be managed.

Citizen Kent Schaaf, address 4621 N. Redbud Avenue, Broken Arrow, asked why more homeowners did not receive notice. Ms. Jill Ferenc responded State Statute required property owners within 300 feet of the property in question be notified for zoning cases, and Comprehensive Plan amendments required a 300-foot area of notice. Mr. Schaaf stated he felt everyone in his addition should have been notified as all would be affected by the development of the 75 acres. He stated he lived in Greenbrier which had one street with 90 homes, and he was concerned about traffic increases. He stated he was promised there would never be any cheap apartments or cheap homes developed next door to his home (his property abutted the 75 acres in question). He stated it was impossible to build a home of his quality on a 7,200 square foot lot. He indicated if cheaper homes were built next to his property the roads should not be connected. He noted the new development would still have two entrances if his neighborhood were not connected. He stated this new development would increase traffic, decrease home values, and increase crime in the area.

Vice Chair Ricky Jones asked who guaranteed there would be no cheap houses built on the lot next to his property. Mr. Schaaf responded the builder of his home made this guarantee.

Citizen Jim Basteri, address 2017 W. Xenia, stated he was concerned about increased traffic and the quality of the homes being built. He asked what types of homes were planned to be built. Chairperson Whelpley noted this was not the right meeting to discuss what type of home would be built. Ms. Ferenc noted this meeting was to discuss the Comprehensive Plan change. Mr. Basteri discussed other surrounding developments. He indicated he had been hoping to upgrade when he moved into this new neighborhood and he was upset by this proposed development. He stated the new development would cause additional traffic difficulties.

Vice Chairperson Ricky Jones asked if 145th Avenue was a prime arterial street. Ms. Ferenc responded in the affirmative. Vice Chairperson Ricky Jones explained 145th Avenue was planned to be improved in the future as a 120-foot primary arterial road.

Citizen Kristen Robinson, address 4616 N. Sycamore Avenue, Broken Arrow, stated she ran an in-home childcare facility, licensed by DHS and the Air Force. She stated she was concerned about the manholes in her backyard; she asked if the developer would need to go through her backyard to access the manholes to continue the sewer lines as she did not want the children she cared for exposed to this type of situation. She noted the children's playtime would be interrupted. She stated she hoped her yard could be left alone. She asked if it would be possible to completely section off the construction area to ensure the children had no access and the construction site was not visible. She stated she agreed with the other speakers; she would miss her dead-end street and the wildlife on the neighboring property.

Citizen Kurt Arras, address 4612 N. Sycamore Avenue, Broken Arrow, asked where the utility lines were located. He indicated he felt the statement that there were utilities present for access was a falsehood. He asked if the Planning Commission would approve an electronic gate to keep nonresidents out of his neighborhood. He asked about the water pressure. He stated he barely had water pressure and he worried the water pressure would worsen with the new development. He asked if construction vehicles would be driving through his neighborhood to access the construction site. He asked where construction vehicles would park. He asked who would fix the road after it was damaged by construction vehicle traffic.

Citizen John Corn, address 1200 W. Ulysses Street, Broken Arrow, stated the draft PUD amendment redefined the size of the executive lot; he strenuously objected to this. He stated the executive lot standards needed to be maintained. He stated he was concerned about the smaller lot sizes and type of housing planned to be developed. He stated he was concerned about housing standards and fence standards. He stated he was not opposed to the Comprehensive Plan change but was worried about the development. He stated he was concerned about the construction traffic. He noted construction traffic currently traveled down 145th and large trucks should be utilizing 160th. He noted there were over 1,000 apartments near this location and another 750 apartments planned. He discussed his concerns about traffic increases.

Citizen Patty Hillman, address 1912 W. Xenia Street, Broken Arrow, stated she agreed with the traffic and ecosystem concerns. She asked if the lot sizes could be increased. Ms. Ferenc responded lot sizes would be addressed at a later date. Ms. Hillman asked what type of commercial businesses would be developed. Ms. Ferenc responded this would be addressed at a later date as well. Vice Chairperson Ricky Jones indicated if commercial zoning were applied for, new notice would be sent out. Ms. Hillman asked how a citizen could know whether to agree or disagree with a Comprehensive Plan change at this stage. Vice Chairperson Ricky Jones explained the Comprehensive Plan had different zoning types which were permitted in each Level of the Comprehensive Plan; changing the Comprehensive Plan changed which types of zoning could be permitted in the area. He noted the Comprehensive Plan was a master plan adopted by the public which planned out how the City should grow.

Ms. Hillman asked if she was correct in her understanding that this was not the correct meeting to air concerns about traffic, lot sizes, etc. Ms. Ferenc responded in the affirmative. Chairperson Whelpley stated there would be another time to address those types of concerns.

Vice Chairperson Ricky Jones thanked Ms. Hillman for trying to learn about the Comprehensive Plan.

Citizen Carla Rausch, address 1512 W. Zillah Street, Broken Arrow, stated she lived on a bluff and she was concerned about how the development would be separated from her property. She stated she was concerned about the new development's HOA requirements. She stated she was concerned about the wildlife. She stated she was concerned about possible changes in the plan she was unaware of.

Citizen Jim Basteri, address 2017 W Xenia, Broken Arrow asked if Comprehensive Plan Levels were the same as zoning. Vice Chairperson Ricky Jones responded in the negative.

Ms. Jill Ferenc reviewed the tables which went with the Comprehensive Plan. She explained Level 2 of the Comprehensive Plan allowed single family home developments with R-2, RS-2, RS-3 and RS-4, and RD was possible; Level 4 allowed Neighborhood Mixed use (NM), Community Mixed use (CM), Office Neighborhood (ON), Commercial Neighborhood (CN) and Commercial General (CG); Level 3 permitted potential Light Commercial (LC) or residential options with possible R-2, RS-2, RS-3, and CM and permitted were RS-4, RD, RM, and RMH, NM. She displayed the map of the Comprehensive Plan change request which illustrated where each of these Levels would now be located.

Mr. Basteri asked if Broken Arrow coordinated with Tulsa when planning developments. Ms. Ferenc stated notification was given about development within certain areas in between Tulsa and Broken Arrow. Mr. Basteri asked about who owned and cared for 145th Avenue. Ms. Ferenc explained 145th was the boundary of Broken Arrow and was maintained by Tulsa County. She noted Tulsa County would be widening 145th Avenue.

Mr. Basteri asked if developers were required to pay for bringing in the necessary utilities. He stated Tulsa was planning to develop apartments across on the other side of 145th which he believed would be problematic. He stated he did not want this area to become too commercial and draw in crime.

Chairperson Whelpley read through the online submittals: 1) David Jankowski (opposed), address 4508 N. Walnut Avenue, Broken Arrow, expressed concerns regarding a decrease in property values and the wildlife habitat. 2) Amy Jankowski (opposed), address 4508 N. Walnut Avenue, Broken Arrow, expressed concerns regarding the value of her property; she wished for a greenspace buffer to be between her home and the development. 3) Bruce Hillman (opposed), address 1912 W. Xenia Street, Broken Arrow, expressed concerns regarding entrances into the new development going through his neighborhood and extra traffic; he recommended a bicycle path/trail as a connector between the two neighborhoods. 4) Steve Jost (undecided), address 4408 N. Walnut Avenue, Broken Arrow, asked about the minimum square foot requirement for Honey Springs development. 5) Patty Hillman (opposed), address 1912 W. Xenia Street, Broken Arrow, expressed concerns regarding traffic on 145th Avenue, water pressure, private retention ponds, and how the new development would be delineated from her own. 6) Kenny Perkins (opposed), address 1516 W. Zillah Street, Broken Arrow, expressed concerns regarding traffic on 145th, and additional traffic through existing neighborhoods. 7) Jim Payne (undecided), address 3609 N. Sycamore, Broken Arrow, expressed concerns regarding increased traffic flow, and transition around the Greenbrier flood retention pond. 8) Scott Pfeil (opposed), address 2009 W. Woodbury, Broken Arrow, expressed concerns regarding reduced construction standards, community connector streets, higher density development, and decreased property values. 9) Laura Rollins (undecided), address 1716 W Zillah Street, Broken Arrow, expressed concerns regarding estimated property values for the new development, and traffic increases.

Vice Chairperson Ricky Jones stated the Planning Commission heard many good comments today. He stated this was the Comprehensive Plan change and he understood why the applicant was wishing to change the Comprehensive Plan to match the wetlands, blue threads, and other topography issues. He explained the next step would be the rezoning and the PUD. He noted there was a draft PUD. He suggested the interested parties and the applicant meet prior to the rezoning/PUD Planning Commission meeting to discuss these issues. He stated he was in support of the Comprehensive Plan change because he understood the logic behind the application. He asked Mr. Cross (the applicant) if he would be willing to meet with the interested residents to discuss the residents' concerns.

Mr. Cross responded in the affirmative. He noted he appreciated the clarification regarding what was being discussed and voted upon today. He noted currently the property owner had the right to build homes on this property; the Comprehensive Plan was simply reconfiguring the land to reorient the more commercial development along 41st Street and reduce the commercial footprint due to the greenbelt requirements. He stated he would be happy to meet and discuss the development with the residents and provide information regarding the PUD and zoning change.

Commissioner Dorrell agreed with Vice Chairperson Ricky Jones. He liked the new Comprehensive Plan layout more than the current layout. He stated after listening to the comments made, he believed the residents would benefit from this Comprehensive Plan change; it would improve the potential development of the area. He noted the residents had legitimate concerns and he appreciated the questions and comments. He agreed a meeting between the applicant/developer and the residents would be highly beneficial to all parties.

Chairperson Whelpley stated when residents attended meetings and expressed concerns it was

educational for the Planning Commission as a whole. He stated he felt it was imperative for the developer/applicant to meet with the local residents and discuss.

Commissioner Klempa explained this Comprehensive Plan change would move the commercial and multifamily portion of the development further away from the existing residents' homes.

Commissioner Mark Jones agreed with his fellow Commissioners. He agreed with residents' concerns; traffic was a legitimate concern but at the same time growth was a good thing and he did not wish to stifle the growth of Broken Arrow. He stated he hoped the traffic situation would be improved sooner rather than later, but currently the Planning Commission was only considering the Comprehensive Plan and what was the best use of the property, and he felt this Comprehensive Plan change would be the best use of the property.

MOTION: A motion was made by Mark Jones, seconded by Jaylee Klempa.

Move to approve Item 6H per Staff recommendation

The motion carried by the following vote:

Aye: 5 - Jaylee Klempa, Fred Dorrell, Mark Jones, Ricky Jones, Lee Whelpley

Chairperson Whelpley indicated this Item would go before City Council on October 20, 2020 at 6:30 p.m. He recommended the Citizens go before City Council and voice their concerns as well. He noted a Request to Speak form was required to be completed prior to the meeting. Commissioner Mark Jones agreed.

Mr. Cross indicated his phone number was 918-591-5252 if any resident wished to contact him to discuss the development.

Vice Chairperson Ricky Jones thanked Mr. Cross.

7. Appeals

There were no Appeals.

8. General Commission Business

There was no General Commission Business.

9. Remarks, Inquiries, and Comments by Planning Commission and Staff (No Action)

Ms. Jill Ferenc updated and clarified that the City PUD Item (Item 6.G.) will go before the City Council on the October 6, 2020 Meeting.

Ms. Jill Ferenc recognized Commissioner Mark Jones for his service to the Planning Commission. She indicated tonight was his final Planning Commission Meeting.

Commissioner Mark Jones stated it had been very rewarding serving on the Planning Commission. He noted he had served for five years, but his new business was time consuming; therefore, he felt it was time for him to step down.

Vice Chairperson Ricky Jones asked for a formal recognition of Commissioner Mark Jones with a commemorative plaque be arranged in the future. It was agreed this would be done.

The Planning Commission thanked Commissioner Mark Jones for his service.

10. Adjournment

The meeting adjourned at approximately 7:06 p.m.

MOTION: A motion was made by Jaylee Klempa, seconded by Mark Jones.

Move to adjourn

The motion carried by the following vote:

Aye: 5 - Jaylee Klempa, Fred Dorrell, Mark Jones, Ricky Jones, Lee Whelpley

Mayor

City Clerk



City of Broken Arrow

Request for Action

File #: 20-1256, **Version:** 1

**Broken Arrow Planning Commission
10-08-2020**

To: Chairman and Commission Members
From: Development Services Department
Title: Approval of BAL-2099CB (Lot Combination), Primrose School of Broken Arrow, 2 Lots, 2.21 acres, one-quarter mile east of Aspen Avenue (145th East Avenue), south of Albany Street (61st Street)

Background:

Applicant: Wallace Engineering, Jim Beach
Owner: Primrose School Franchising Company, LLC
Developer: Primrose School Franchising Company, LLC
Engineer: Wallace Engineering
Location: One-quarter mile east of Aspen Avenue (145th East Avenue), south of Albany Street (61st Street)
Size of Tract 2.21 total acres
Number of Lots: 2 Lots
Present Zoning: CG/PUD-44G
Comp Plan: Level 6 (Regional Employment/Commercial)

Lot combination request BAL-2099CB involves two lots totaling 2.21 acres located one-quarter mile east of Aspen Avenue (145th East Avenue), south of Albany Street (61st Street). This property is platted as Lots 7 and 10, Block 1, The Park at Greenway and is zoned CG (Commercial General), and PUD-44G (Planned Unit Development).

BAL-2099CB is a request to combine Lots 7 and 10, Block 1 into one parcel. This lot consolidation is to facilitate the construction of a new childcare facility on the property.

According to FEMA maps, none of the property is in a 100-year floodplain.

Oklahoma Natural Gas (ONG), Public Service Company of Oklahoma (PSO), Cox Communications, and Windstream have indicated that they do not have any problems with the proposed lot consolidation.

Attachments: Case map
Aerial
Exhibit
The Park at Greenway Plat

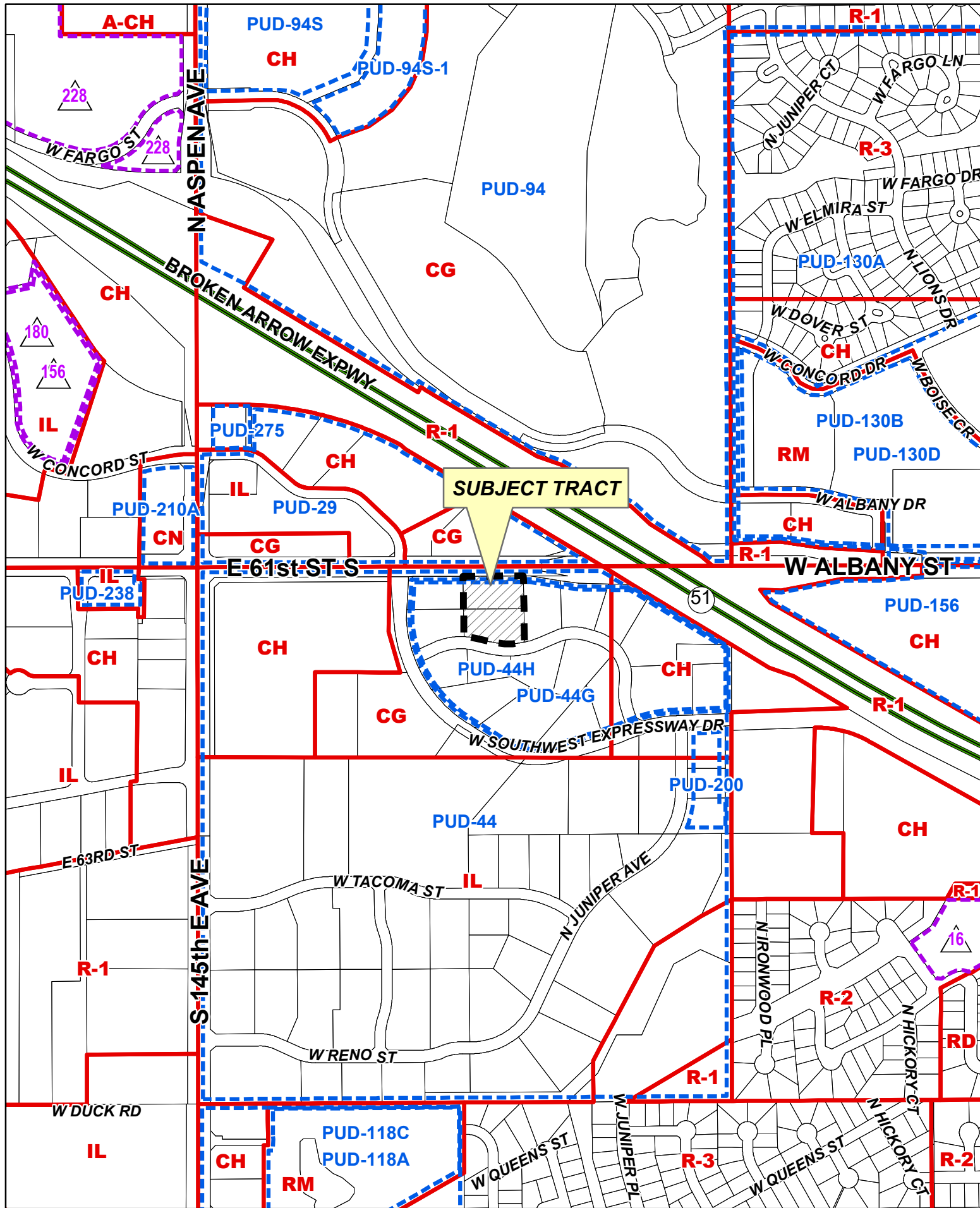
Recommendation:

Staff recommends BAL-2099CB be approved subject to the warranty deed for the new parcel being brought to the Planning and Development Division to be stamped prior to being recorded in Tulsa County.

Reviewed by: **Larry R. Curtis**

Approved by: **Jill Ferenc**

ALY

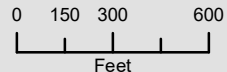


300' Radius



Subject
Tract

BAL-2099CB



03 18-14





Note: Graphic overlays may
not precisely align with physical
features on the ground.
Aerial Photo Date February 2018



Subject
Tract

BAL-2099CB

0 150 300 600
Feet

03 18-14



Lot Combination Legal Description

LOTS 7 AND 10, BLOCK 1, THE PARK AT GREENWAY, A SUBDIVISION IN THE CITY OF BROKEN ARROW, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF.

Tract A Legal Description

LOT 7, BLOCK 1, THE PARK AT GREENWAY, A SUBDIVISION IN THE CITY OF BROKEN ARROW, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF.

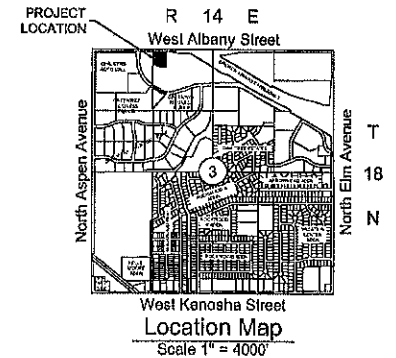
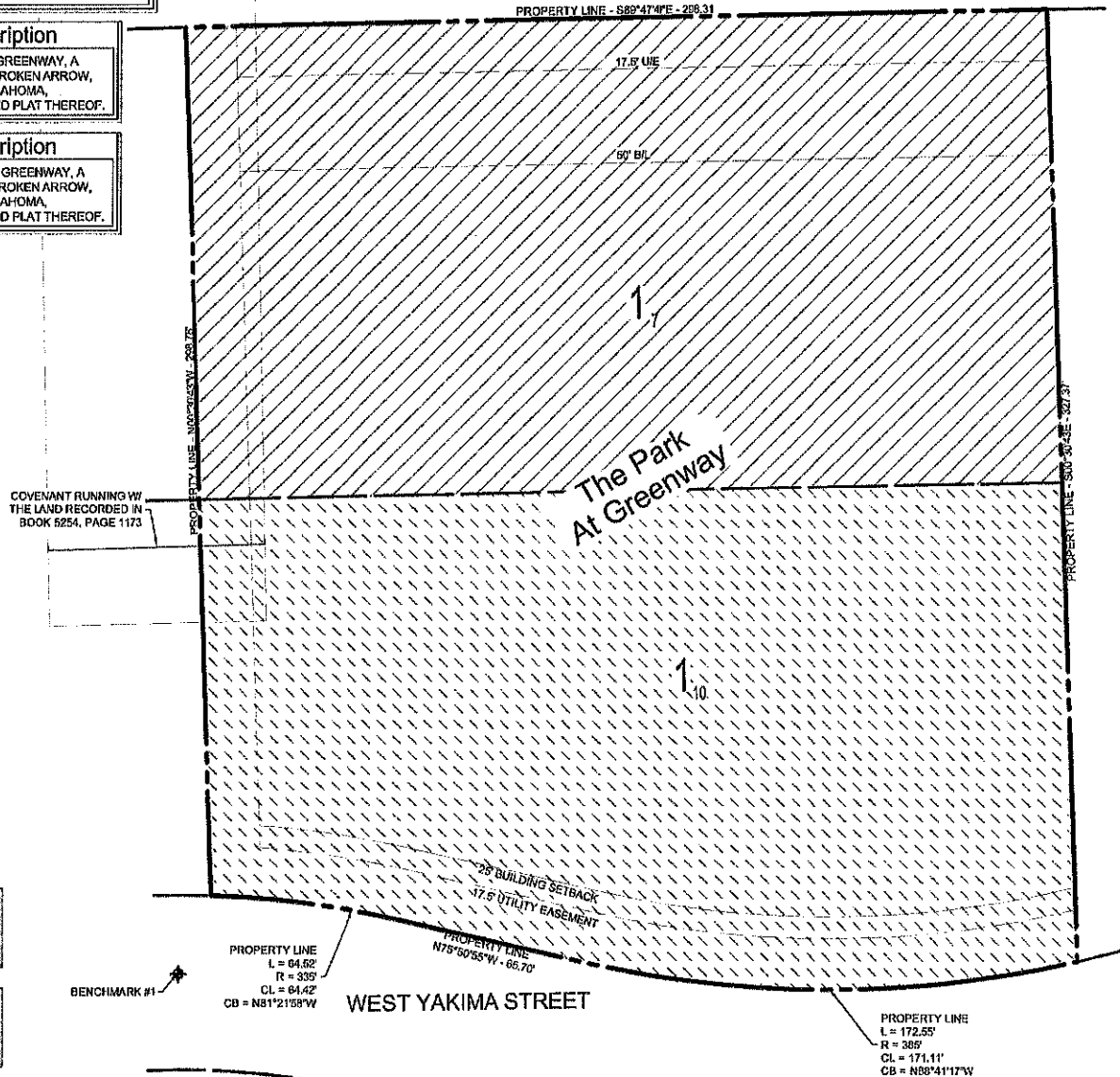
Tract B Legal Description

LOT 10, BLOCK 1, THE PARK AT GREENWAY, A SUBDIVISION IN THE CITY OF BROKEN ARROW, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF.

Hatch Legend



WEST ALBANY STREET (EAST 61ST STREET SOUTH)



LOT COMBINATION

PRIMROSE SCHOOL OF BROKEN ARROW

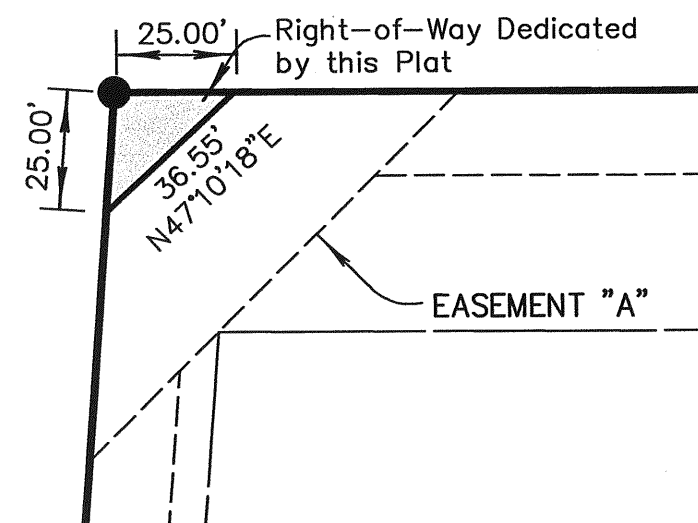
PROJECT NO : 2040103

ORIGINAL ISSUE DATE: AUGUST 25, 2020

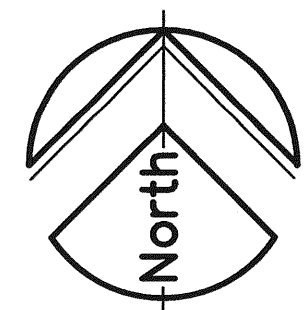
SCALE: 1" = 60'

SHEET NO.

C01



DETAIL A1



Scale: 1"=100'

P.O.B. = POINT OF BEGINNING
ACC = ACCESS PERMITTED
B/L = BUILDING LINE
BK, PG = BOOK, PAGE
ESMT = EASEMENT
LNA = LIMITS OF NO ACCESS
MAE = MUTUAL ACCESS EASEMENT
ODE = OVERLAND DRAINAGE EASEMENT
RES. = RESERVE
RWE = RESTRICTED WATERLINE EASEMENT
R/W = RIGHT-OF-WAY
U/E = UTILITY EASEMENT
U/E = UTILITY EASEMENT
○ = FOUND CORNER
● = SET 3/8" IRON PIN WITH YELLOW CAP
1700 = STREET ADDRESS

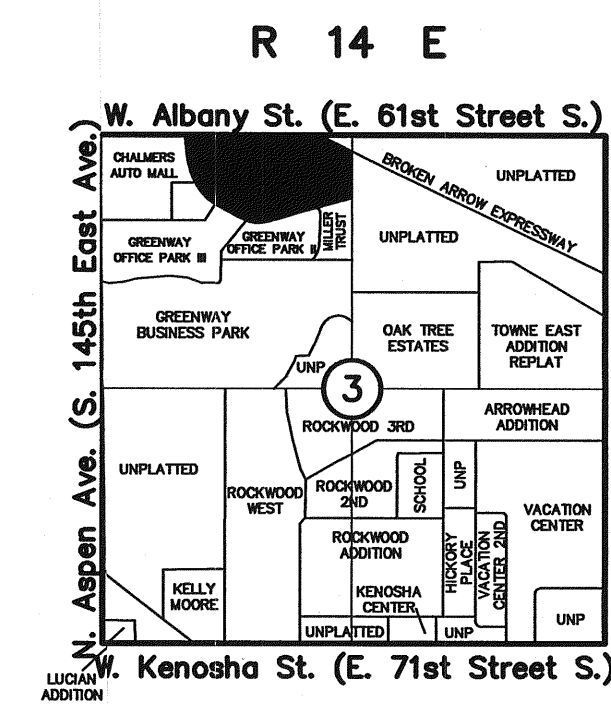
PUD-44G AND H

The Park at Greenway

PART OF THE N/2 OF THE NW/4 OF SECTION 3, TOWNSHIP 18 NORTH, RANGE 14 EAST
AN ADDITION TO THE CITY OF BROKEN ARROW, TULSA COUNTY, OKLAHOMA

OWNER:
Midwesco Industries, Inc
2119 South Union Avenue
Tulsa, Oklahoma 74107
Phone: (918) 858-4200

SURVEYOR/ENGINEER:
Tanner Consulting, L.L.C.
DAN E. TANNER, P.L.S. NO. 1435
OK CA No. 2661, EXPIRES 6/30/2009
5323 South Lewis Avenue
Tulsa, Oklahoma 74105
Phone: (918)745-9929



Location Map
SCALE: 1"=2000'

SUBDIVISION CONTAINS
SEVENTEEN(17) LOTS IN TWO(2) BLOCKS
AND ONE (1) RESERVE
GROSS SUBDIVISION AREA: 24.573 ACRES

PLAT No.
6152

Benchmark Φ
THREE INCH (3") ALUMINUM CAP SET
IN CONCRETE POST STAMPED "BA-38"
ON THE NORTH SIDE OF EAST 61ST
STREET SOUTH AT THE EAST END OF
THE BROKEN ARROW EXPRESSWAY OVERPASS
ELEVATION= 777.39 (NAVD '88) (TAKEN
FROM CITY OF TULSA BENCHMARK DATA)

Basis of Bearings
THE BASIS OF BEARINGS FOR THE PROPERTY
DEPICTED HEREON IS THE NORTHERLY
LINE OF GREENWAY BUSINESS PARK II,
AN ADDITION TO THE CITY OF BROKEN
ARROW, TULSA COUNTY, STATE OF
OKLAHOMA, ACCORDING TO THE RECORDED
PLAT THEREOF (PLAT NO. 4878)

ADDRESSES SHOWN ON THIS PLAT
WERE ACCURATE AT THE TIME THIS
PLAT WAS FILED. ADDRESSES ARE
SUBJECT TO CHANGE AND SHOULD
NEVER BE RELIED ON IN PLACE OF
LEGAL DESCRIPTION.

Backflow Preventer Table

BLOCK 1			
LOT No.	APPROX. FF	SS RIM ELEVATION	BFP REQUIRED?
1	776.0	778.37	YES
2	771.5	770.39	NO
3	770.0	768.73	NO
4	764.0	765.25	YES
5	765.0	763.94	NO
6	766.0	763.94	NO
7	773.0	770.14	NO
8	770.0	770.14	YES
9	767.0	770.14	YES
10	766.0	770.14	YES

BLOCK 2			
LOT No.	APPROX. FF	SS RIM ELEVATION	BFP REQUIRED?
1	757.0	760.65	YES
2	757.0	760.65	YES
3	755.0	754.19	YES
4	760.0	765.51	YES
5	770.0	765.51	NO
6	770.0	767.85	NO
7	759.0	763.85	YES

IF THE ACTUAL FINISH FLOOR ELEVATION IS LOWER THAN ONE (1) FOOT ABOVE
THE RIM ELEVATION OF THE UPSTREAM MANHOLE, IT SHALL BE THE BUILDER'S
RESPONSIBILITY TO INSTALL A BACKFLOW PREVENTER VALVE NEAR THE BUILDING
ACCORDING TO BROKEN ARROW ORDINANCE No. 1777, SECTION 24-100.

STATE OF OKLAHOMA } SS.
COUNTY OF TULSA

I, Earlene Wilson, Tulsa County Clerk, in and
for the County and State above named, do
hereby certify that the foregoing is a true
and correct copy of a like instrument now
on file in my office.

Dated the _____ day of _____, 2007
EARLENE WILSON, Tulsa County Clerk

Deputy

CERTIFICATE

I hereby certify that all real estate taxes involved in
this plat have been paid as reflected by the current tax
rolls. Security as required has been provided in the
amount of \$ 13,064.00 per trust receipt no.
9194 to be applied to 20 07 taxes. This
certificate is NOT to be construed as payment of
20 07 taxes in full but is given in order that this plat
may be filed on record. 20 07 taxes will exceed the
amount of the security deposit.

Dated 04-Oct-07

Dennis Semler
Tulsa County Treasurer
Deputy

APPROVED 5-7-07 by the City
Council of the City of Broken Arrow,
Oklahoma.
Wade McCaleb Jr.
Mayor
Attest: City Clerk Earlene Wilson

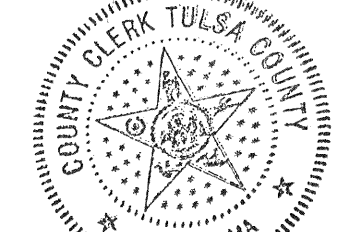
CASE NO. (PT05-124)
DEVELOPMENT NO. (DN05-198)
The Park at Greenway

SHEET 1 OF 2

Curve Information			
CURVE NO.	LENGTH(L)	RADIUS(R)	DELTA(A)
1	108.92'	280.00'	221°72'
2	85.58'	220.00'	221°72'
3	309.26'	230.00'	77°02'25"
4	228.58'	170.00'	77°02'25"
5	138.98'	195.00'	40°50'09"
6	181.74'	285.00'	40°50'09"
7	250.75'	385.00'	37°19'00"
8	289.83'	445.00'	37°19'00"
9	189.87'	275.00'	39°33'33"
10	231.30'	335.00'	38°53'33"

THIS PLAT OF SURVEY MEETS THE
OKLAHOMA MINIMUM STANDARDS FOR
THE PRACTICE OF LAND SURVEYING
AS ADOPTED BY THE OKLAHOMA
STATE BOARD OF REGISTRATION FOR
PROFESSIONAL ENGINEERS AND LAND
SURVEYORS.

STORMWATER DETENTION ACCOMMODATIONS FOR THIS SITE ARE
PROVIDED BY THE ONSITE DETENTION FACILITY AS SHOWN IN THE
"NO EXCEPTIONS TAKEN" ENGINEERING PLANS IN ACCORDANCE WITH
FEE IN-LIEU OF DETENTION DETERMINATION # DD-110105-77.

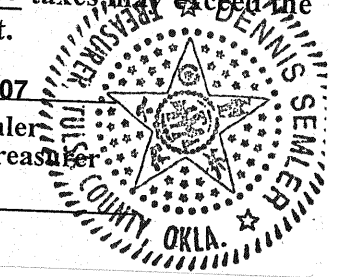


STATE OF OKLAHOMA } SS.
COUNTY OF TULSA

I, Earlene Wilson, Tulsa County Clerk, in and
for the County and State above named, do
hereby certify that the foregoing is a true and
correct copy of a like instrument now on file
in my office.

Dated the 14th day of Oct 2007
EARLENE WILSON, Tulsa County Clerk

Deputy



Entered in H76
10/13/07



City of Broken Arrow

Request for Action

File #: 20-1255, **Version:** 1

Broken Arrow Planning Commission

10-08-2020

To: Chairman and Commission Members

From: Development Services Department

Title: Approval of PT20-110, Preliminary Plat, Bricktown East, 23.5 acres, 92 Lots, CG and IL to PUD-318/RS-4, one-quarter mile north of Kenosha Street (71st Street), one-quarter mile west of Aspen Avenue (145th E. Avenue)

Background:

Applicant: Jim Beach, Wallace Engineering

Owner: Villages at Bricktown, LLC

Developer: Villages at Bricktown, LLC

Engineer: Wallace Engineering Structural Consultants, Inc.

Location: One-quarter mile north of Kenosha Street (71st Street), one-quarter mile west of Aspen Avenue (145th E. Avenue)

Size of Tract 23.5 acres

Number of Lots: 92

Present Zoning: CG and IL to PUD-318/RS-4

Comp Plan: Level 3 and Level 6 to Level 3 (BACP-171 pending)

PT20-110, the preliminary plat for Bricktown East contains four existing lots of 23.5 acres. This CG (Commercial General) and IL (Industrial Light) zoned property is located one-quarter mile north of Kenosha Street (71st Street), one-quarter mile west of Aspen Avenue (145th E. Avenue) and has pending zoning cases to accompany the plat.

On September 24, 2020, the Planning Commission recommended that the Comprehensive Plan land use designation for this property be amended from Level 3 and Level 6 to Level 3 (BACP-171). The Planning Commission also recommended approval of PUD-318 (Planned Unit Development) and BAZ-2064 (Rezoning) to change the zoning on this property from CG (Commercial General) and IL (Industrial Light) to RS-4 (Single-family Residential) for a 92-lot subdivision. These items are scheduled for the October 20, 2020 City Council meeting.

With PT0-110, applicant proposes to subdivide this site into 92 single-family lots and two reserve areas. Reserve A includes a stormwater detention pond and utility easement and is also designated as a common area. Reserve B includes the gated entry, private streets, sidewalks, decorative fencing, landscaping and utilities. The primary access will be off of Elder Place, and an exit only access point is proposed on the east side of the site at

Lansing Avenue leading to Aspen Avenue. Two stub streets are proposed to the north. Utilities will be provided by the City of Broken Arrow. None of the property is shown to be located in the 100-year floodplain. A drainage channel and storm sewer are proposed to convey stormwater within a drainage easement along the south boundary of the site.

Attachments: **Checklist**
 Preliminary Plat and Conceptual Utility Plan

Recommendation:

Staff recommends PT20-110, preliminary plat for Bricktown East be approved, subject to the attached checklist, and City Council approval of BACP-171, PUD-318 and BAZ-2064.

Reviewed by: **Jill Ferenc**

Approved by: **Larry R. Curtis**

JMW

BROKEN ARROW PLANNING COMMISSION AND CITY COUNCIL SUBDIVISION PLAT REVIEW CHECKLIST

PLAT INFORMATION

NAME OF PRELIMINARY PLAT: Bricktown East

CASE NUMBER: PT20-110

RELATED CASE NUMBERS: BACP-171, BAZ-2064, PUD-318

COUNTY: Tulsa

SECTION/TOWNSHIP/RANGE: Section 04/T-18-N/R-14-E

GENERAL LOCATION: One-quarter mile north of Kenosha Street (71st St.), one-quarter mile west of Aspen Avenue (145th E. Ave.)

CURRENT ZONING: CG and IL to RS-4/PUD-318

SANITARY SEWER BASIN: Lynn Lane Haikey Creek (S-20434)

STORM WATER DRAINAGE BASIN: Haikey Creek

ENGINEER: Wallace Engineering
ENGINEER ADDRESS: 123 North Martin Luther King Jr. Blvd
Tulsa, OK 74103
ENGINEER PHONE NUMBER: 918-806-7328

DEVELOPER: Villages at Bricktown, LLC
DEVELOPER ADDRESS: 1908 North Willow, Suite #A
Broken Arrow, OK 74012
DEVELOPER PHONE NUMBER: 918-294-0835

PRELIMINARY PLAT

APPLICATION MADE: August 17, 2020

TOTAL ACREAGE: 23.5 acres

NUMBER OF LOTS: 92

TAC MEETING DATE: September 22, 2020 and October 6, 2020

PLANNING COMMISSION MEETING DATE: October 8, 2020

COMMENTS:

1. ____ Include the square footage of each lot on the face of the plat.
2. ____ Please provide document number for closing the MCI Worldcom easement.
3. ____ Section IV. Planned Unit Development Restrictions – modify as necessary as PUD-318 is revised. Change 95 lots to 92 lots.
4. ____ Show the address (as assigned by the City of Broken Arrow) for each lot. Addresses shall be placed on the lot.
5. ____ A utility easement is needed to cover the off-site sanitary sewer to the southwest.
6. ____ Provide a written statement (email is acceptable) that all pie shaped lots meet the minimum lot frontage requirement at the building setback line.
7. ____ Identify the FEMA firm panel number, the Effective Date, and the Flood Zone Designations
8. ____ Coordinate with US Postal Service regarding type of mail delivery. Should neighborhood distribution cluster box units be required, areas will need to be designated for these units.
9. ____ Incorporate any easements or reserves that arise from engineering plan review comments of the conceptual utilities that relate to the plat. See the last page under the Conceptual Utility Engineering Review section for the Engineering Review Recommendations.

CONDITIONAL FINAL PLAT

NAME OF CONDITIONAL FINAL PLAT:

APPLICATION MADE:

TOTAL ACREAGE:

NUMBER OF LOTS:

TAC MEETING DATE:

PLANNING COMMISSION MEETING DATE:

CITY COUNCIL MEETING DATE:

COMMENTS:

10. ____
11. ____
12. ____

13. _____ The conditional final plat and the "no exceptions taken" engineering drawing must agree with respect to Limits of Access and No Access, easement both internal and external, reserve area, traffic control medians, street layouts, rights-of-way, etc. Please provide a written statement (e-mail statement is acceptable) that the conditional final plat agrees with the "no exceptions taken" engineering plans.
14. _____ Finished floor elevations (FFE) shall be shown for each lot on the Final Plat.
15. _____ Show monuments on plat.
16. _____ Provide a closing statement that shows that the platted boundary meets the Survey Standards for Oklahoma, for accuracy and correctness.
17. _____

CONDITIONS TO BE MET PRIOR TO FINAL RELEASE OF PLAT

LETTER OF APPROVAL FROM UTILITY COMPANY SUBMITTED?

_____ NATURAL GAS COMPANY APPROVAL
 _____ ELECTRIC COMPANY APPROVAL
 _____ TELEPHONE COMPANY APPROVAL
 _____ CABLE COMPANY APPROVAL

CERTIFICATE OF RECORDS SEARCH FROM OKLAHOMA CORPORATION COMMISSION SUBMITTED?

_____ OK CORPORATION COMMISSION CERTIFICATE OF RECORDS SEARCH
 OKLAHOMA CORPORATION COMMISSION, 405-521-2271

DEVELOPMENT SERVICES/ENGINEERING APPROVAL

_____ STORMWATER PLANS, ACCEPTED ON:
 _____ PAVING PLANS, ACCEPTED ON:
 _____ WATER PLANS, ACCEPTED ON:
 _____ SANITARY SEWER PLANS, ACCEPTED ON:
 _____ SEWAGE DISPOSAL PLANS, SENT TO DEPARTMENT OF ENVIRONMENTAL QUALITY ON:
 _____ WATER PLANS SENT TO DEPARTMENT OF ENVIRONMENTAL QUALITY ON: _____
 _____ IS A SIDEWALK PERFORMANCE BOND DUE? _____ HAVE THEY BEEN SUBMITTED? _____
 _____ ARE PERFORMANCE BONDS OR ESCROW AGREEMENT DUE FOR WATER, STORM SEWERS, SANITARY SEWER AND PAVING? (CIRCLE APPLICABLE) _____ HAVE THEY BEEN SUBMITTED? _____
 _____ PROJECT ENGINEER/DEVELOPMENT SERVICES REVIEW COMPLETE ON: _____

PLANNING DEPARTMENT APPROVAL

_____ ADDRESSES REVIEWED AND APPROVED?
 _____ DETENTION DETERMINATION # ASSIGNED AND VERIFIED?
 _____ PLANNING DEPARTMENT REVIEW COMPLETE ON:
 _____ FINAL PLAT RECEIVED IN PLANNING DEPARTMENT AFTER UTILITY COMPANY SIGN OFF ON:
 _____ FINAL PLAT SENT TO PROJECT ENGINEER FOR FINAL REVIEW ON:

FEES

_____ FINAL PLAT PROCESSING FEE (\$150 + (\$5 X _____ LOTS)	\$ _____
_____ WATER LINE (S) UNDER PAYBACK CONTRACT	\$ _____
_____ EXCESS SEWER CAPACITY FEE (\$700 X _____ ACRES (LESS ANY AREA IN 100 YEAR FLOODPLAIN ONLY OR AREA IN GOLF COURSE)	\$ _____
_____ ACCELERATION/DECELERATION LANES ESCROW	\$ _____
_____ WATER LINE CONNECTIONS, PAYABLE TO CITY OR OTHERS	\$ _____
_____ SEWER LINE CONNECTIONS, PAYABLE TO CITY OR OTHERS	\$ _____
_____ STREET IMPROVEMENT (WIDENING) ASSESSMENTS	\$ _____
_____ DRAINAGE SYSTEM IMPROVEMENTS PRO RATA COST	\$ _____
_____ REIMBURSEMENT TO CITY OR OTHERS FOR WATER LINE CON.	\$ _____
_____ REIMBURSEMENT TO CITY OR OTHERS FOR SEWER LINE CON.	\$ _____
_____ STREET SIGNS, LIGHTS, ETC. (\$150 X _____ SIGNS)	\$ _____
_____ SIDEWALK ESCROW	\$ _____
_____ STORM WATER FEE-IN-LIEU OF DETENTION (.40 X _____ (SF INCREASED IMPERVIOUS	\$ _____

AREA) (less any area in Reserve Area of ½ acre or more)

TOTAL FEE(S)

\$ _____

FINAL PROCESSING OF PLAT

_____ FINAL PLAT SUBMITTED FOR MAYOR AND CITY CLERK SIGNATURE ON: _____

_____ FEES PAID ON: _____ IN THE AMOUNT OF: _____

_____ FINAL PLAT PICKED UP FOR RECORDATION ON: _____

_____ 2 COPIES OF FILED PLAT SUBMITTED TO PLANNING DEPARTMENT

_____ PDF OF RECORDED PLAT SUBMITTED TO PLANNING DEPARTMENT

CONCEPTUAL UTILITIES ENGINEERING REVIEW

The Conceptual Utility Plans are not a complete set of improvement plans, the applicant is not expected to show how all the improvements are in compliance with all city regulations. As such, there may be additional review items when the final engineering plans are submitted. These conceptual utility plans' review items are intended for guidance toward preparation of the final engineering plans. The following items are not a requirement for approval of the Preliminary Plat or the Conditional Final Plat.

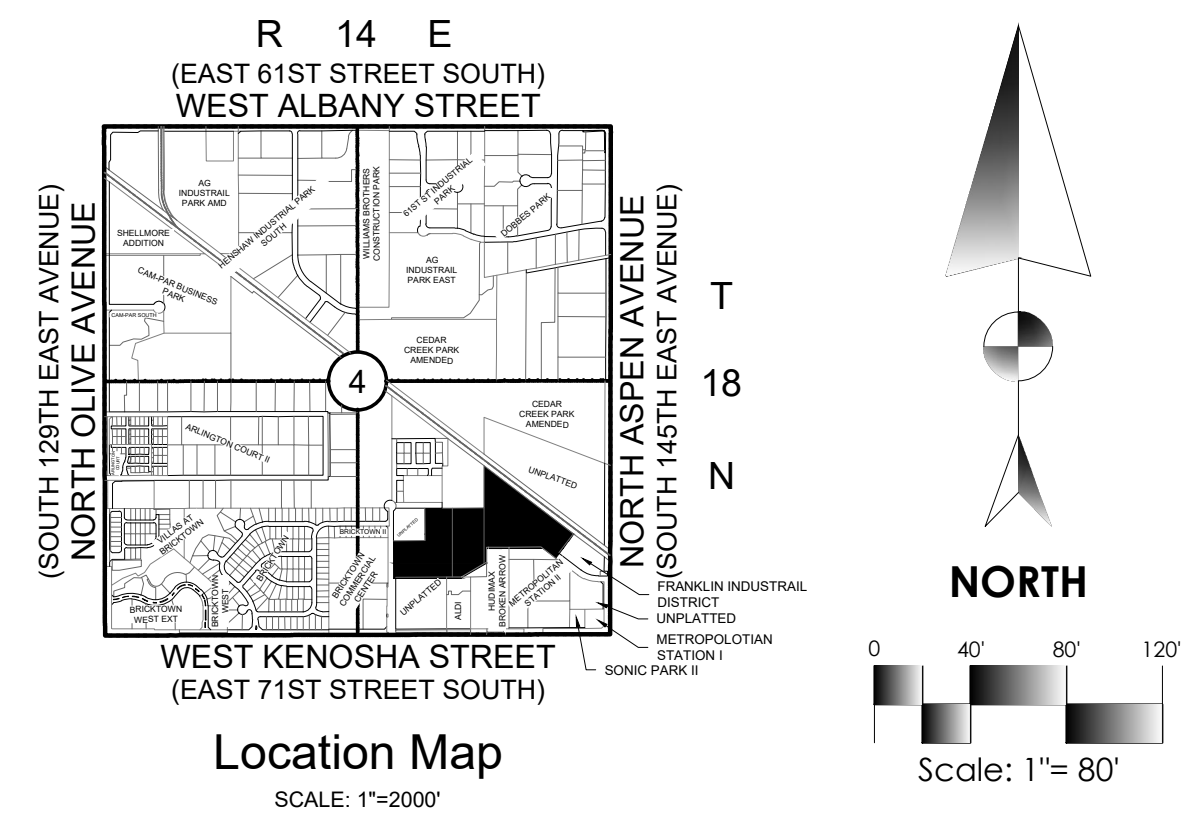
RECOMMENDATIONS FOR UTILITY REVISIONS PRIOR TO ENGINEERING PLAN SUBMITTALS

Thank you for addressing the conceptual utility comments.

The revised conceptual utility plans were received September 24, 2020.

A couple items for you to look at as you move to final engineering plans:

1. The 15' utility easements on both sides of the 30' reserve areas should be treated as the edge of the right of way as if these were public streets. And this "right of way" should not encroach into the other easements such as next to Lot 1 Block 5.
2. The location of the waterline within the "right of way" should be at least 4' off the street curb. Generally 8' off the public street's right of way line.
3. The location of the 4' sidewalk should be 7' off the street curb, generally 1' off the public street's right of way line.
4. Include the newly added utility cross section on the final plans, primarily to show the fire hydrant and it being 9' off the waterline. The FH is generally in an easement outside the public street's right of way, so you will need to add an easement outside the 15' utility easement for FH maintenance.
5. For the waterlines, use fittings to make the waterline bend around the cul de sacs and bends in the street. Try to limit the deflections in the waterline pipe's joints.



PRELIMINARY PLAT

Bricktown East

PUD - 318

A TRACT OF LAND THAT IS PART OF THE SOUTHEAST QUARTER (SE/4) OF SECTION FOUR (4), TOWNSHIP EIGHTEEN (18) NORTH, RANGE FOURTEEN (14) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA

OWNER:
Bricktown East, LLC
1908 North Willow, Suite #A
Broken Arrow, Oklahoma 74012
Phone: (918) 252-2417
CONTACT: DAVID GIBSON

ENGINEER:
Wallace Engineering
Structural Consultants, Inc
123 North Martin Luther King Jr Blvd.
Tulsa, Oklahoma, 74103
Phone: (918) 584-5858
A. NICOLE WATTS, P.E. NO. 21511
OK CA NO. 1460, EXPIRES 6/30/2021
nwatts@wallacesc.com

SURVEYOR:
Atlas Land Office
202 South Main
Wagoner, Oklahoma 74467
Phone: (918) 485-9987
OK CA NO. CA 6752, EXPIRES 6/30/2020

SUBDIVISION STATISTICS

SUBDIVISION CONTAINS NINETY-TWO (92) LOTS IN EIGHT (8) BLOCKS AND TWO (2) RESERVE.

SUBDIVISION CONTAINS 1,024,208.88 SQUARE FEET OR 23.51 ACRES.

MONUMENTATION

3" IRON PINS FOUND AT ALL PROPERTY CORNERS UNLESS OTHERWISE NOTED.

BENCHMARK

BENCHMARK #1
N - E:
ELEVATION: 7

BENCHMARK #2
N - E:
ELEVATION: 7

BASIS OF BEARINGS

THE BASIS OF BEARINGS FOR SAID TRACT IS DUE NORTH ALONG THE EAST LINE OF THE SOUTHEAST QUARTER (SE/4) OF SECTION FOUR (4), TOWNSHIP EIGHTEEN (18) NORTH, RANGE FOURTEEN (14) EAST, OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE UNITED STATES GOVERNMENT SURVEY THEREOF.

ADDRESSES

ADDRESS SHOWN ON THIS PLAT WERE ACCURATE AT THE TIME THIS PLAT WAS FILED. ADDRESSES ARE SUBJECT TO CHANGE AND SHOULD NEVER BE RELIED ON IN PLACE OF LEGAL DESCRIPTION.

NOTES

THIS PLAT MEETS THE OKLAHOMA MINIMUM STANDARDS FOR THE PRACTICE OF LAND SURVEYING AS ADOPTED BY THE OKLAHOMA STATE BOARD OF LICENSURE OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

ACCESS AT THE TIME OF PLAT WAS PROVIDED BY NORTH ELDER PLACE, A PUBLIC STREET.

STORMWATER DETENTION ACCOMMODATIONS FOR THIS SITE ARE PROVIDED IN ACCORDANCE WITH FEE-IN-LIEU OF DETENTION DETERMINATION # DD-070112-26R.

ALL BUILDINGS WILL REQUIRE A BACKFLOW PREVENTOR

LEGAL DESCRIPTION

A TRACT OF LAND THAT IS PART OF THE SOUTHEAST QUARTER (SE/4) OF SECTION FOUR (4), TOWNSHIP EIGHTEEN (18) NORTH, RANGE FOURTEEN (14) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE UNITED STATES GOVERNMENT SURVEY THEREOF, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

STARTING AT THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER (SE/4); THENCE DUE NORTH ALONG THE EASTERLY LINE OF THE SOUTHEAST QUARTER (SE/4) FOR 755.36 FEET TO A POINT ON THE SOUTHEASTERLY EXTENSION OF THE NORTHEASTERLY LINE OF "FRANKLIN INDUSTRIAL DISTRICT", AN ADDITION TO THE CITY OF BROKEN ARROW, TULSA COUNTY, OKLAHOMA, ACCORDING TO THE RECORDED PLAT NO. 3246; THENCE N 52°51'45" W ALONG SAID EXTENSION AND NORTHEASTERLY LINE FOR 485.26 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND, SAID POINT BEING THE MOST NORTHERLY CORNER OF SAID "FRANKLIN INDUSTRIAL DISTRICT", SAID POINT ALSO BEING ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF THE M.K.&T. RAILWAY, THENCE S 37°08'15" W ALONG THE NORTHWESTERLY LINE OF "FRANKLIN INDUSTRIAL DISTRICT" FOR 310.00 FEET TO THE MOST WESTERLY CORNER THEREOF; THENCE N 52°51'45" W ALONG THE NORTHWESTERLY EXTENSION OF THE SOUTHWESTERLY LINE OF "FRANKLIN INDUSTRIAL DISTRICT" FOR 170.00 FEET; THENCE S 89°46'27" W AND PARALLEL WITH THE SOUTHERLY LINE OF THE SOUTHEAST QUARTER (SE/4) FOR 354.05 FEET TO A POINT ON THE EASTERLY LINE OF LOT ONE (1) IN BLOCK ONE (1) OF "HUDIMAX BROKEN ARROW, A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER (SE/4) OF SECTION FOUR (4), TOWNSHIP EIGHTEEN (18) NORTH, RANGE FOURTEEN (14) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, OKLAHOMA, ACCORDING TO THE RECORDED PLAT NO. 6095; THENCE N 00°13'33" W ALONG SAID EASTERLY LINE FOR 0.38 FEET TO THE NORTHEAST CORNER OF SAID LOT ONE (1); THENCE S 89°46'27" W ALONG THE NORTHERLY LINE OF LOT ONE (1) FOR 233.00 FEET TO THE NORTHWEST CORNER THEREOF; THENCE S 00°13'33" E ALONG THE WESTERLY LINE OF LOT ONE (1) FOR 155.16 FEET TO THE NORTHEAST CORNER OF RESERVE "A" OF HUDIMAX BROKEN ARROW; THENCE S 59°52'27" W ALONG THE NORTHWESTERLY LINE OF RESERVE "A" FOR 304.60 FEET TO A POINT THAT IS THE SOUTHWESTERLY CORNER OF RESERVE "A", SAID POINT BEING ON THE NORTHERLY LINE OF RESERVE "A" OF "ALDI CENTER", AN ADDITION TO THE CITY OF BROKEN ARROW, TULSA COUNTY, OKLAHOMA, ACCORDING TO THE RECORDED PLAT NO. 5550; THENCE S 89°46'27" W ALONG SAID NORTHERLY LINE FOR 152.95 FEET TO THE NORTHWEST CORNER OF SAID RESERVE "A" THENCE CONTINUING S 89°46'27" W AND PARALLEL WITH THE SOUTHERLY LINE OF THE SOUTHEAST QUARTER (SE/4) FOR 338.00 FEET TO A POINT ON THE NORTHERLY LINE OF THE SOUTHWEST QUARTER (SW/4) OF THE SOUTHEAST QUARTER (SE/4) FOR 548.41 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF ELDER PLACE; THENCE N 00°05'02" W ALONG SAID RIGHT-OF-WAY LINE FOR 384.99 FEET TO A POINT THAT IS 338.00 FEET SOUTHERLY OF THE NORTHERLY LINE OF THE SOUTHWEST QUARTER (SW/4) OF THE SOUTHEAST QUARTER (SE/4) OF SAID SECTION FOUR (4); THENCE N 89°48'54" E AND PARALLEL WITH SAID NORTHERLY LINE FOR 328.00 FEET; THENCE N 00°05'02" W AND PARALLEL WITH THE WESTERLY LINE OF THE SOUTHWEST QUARTER (SW/4) OF THE SOUTHEAST QUARTER (SE/4) FOR 338.00 FEET TO A POINT ON THE NORTHERLY LINE OF THE SOUTHWEST QUARTER (SW/4) OF THE SOUTHEAST QUARTER (SE/4); THENCE N 89°48'54" E ALONG SAID NORTHERLY LINE FOR 615.64 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER (SW/4) OF THE SOUTHEAST QUARTER (SE/4); THENCE N 00°02'53" W ALONG THE WESTERLY LINE OF THE NORTHEAST QUARTER (NE/4) OF THE SOUTHEAST QUARTER (SE/4) FOR 436.80 FEET TO A POINT ON THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF THE M.K.&T. RAILWAY; THENCE S 52°51'45" E ALONG SAID RIGHT-OF-WAY LINE FOR 1168.75 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND.

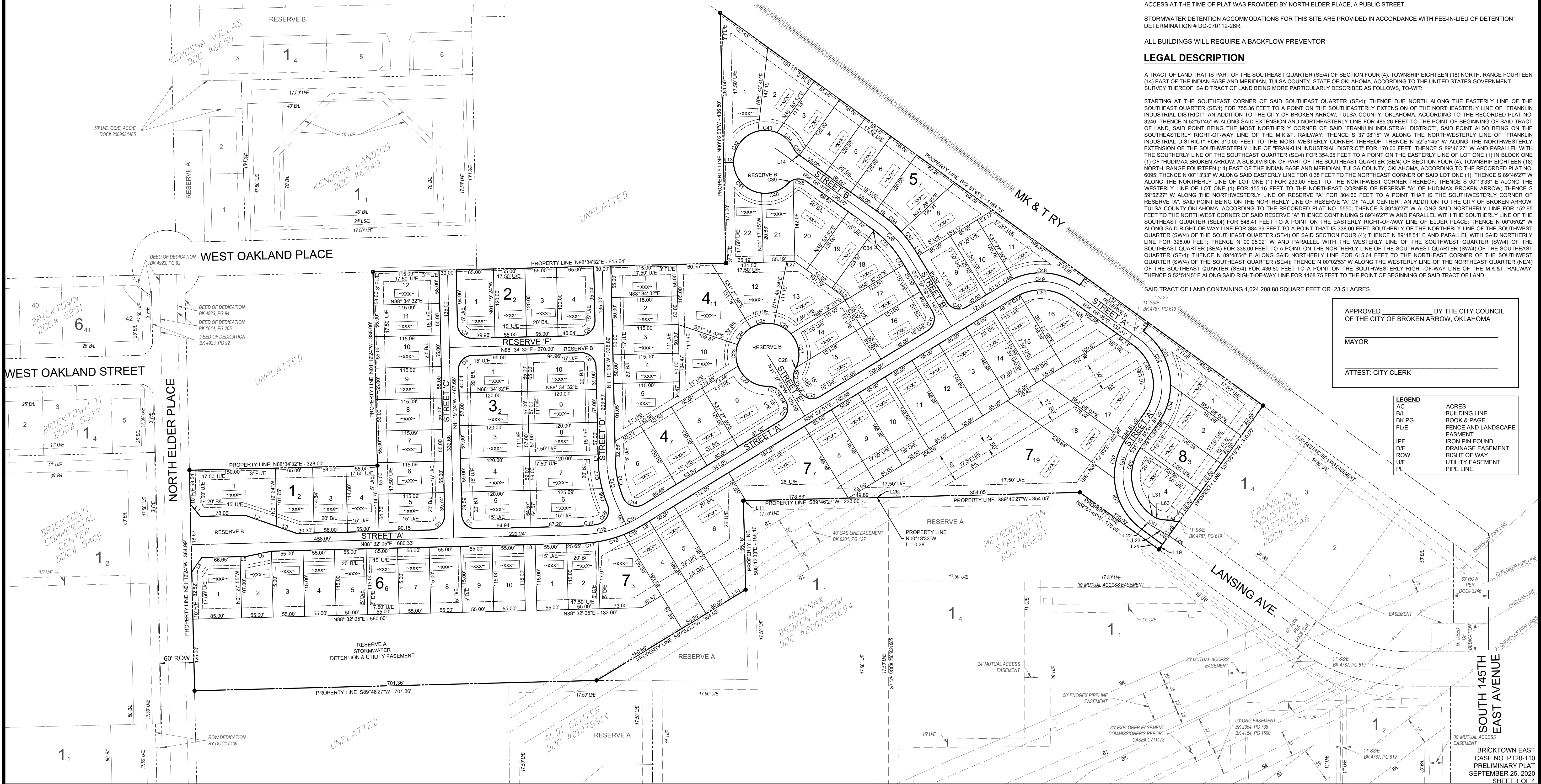
SAID TRACT OF LAND CONTAINING 1,024,208.88 SQUARE FEET OR 23.51 ACRES.

APPROVED _____ BY THE CITY COUNCIL
OF THE CITY OF BROKEN ARROW, OKLAHOMA

MAYOR _____

ATTEST: CITY CLERK _____

LEGEND	
AC	ACRES
BL	BUILDING LINE
BK	BOOK & PAGE
FL	FENCE AND LANDSCAPE
FL	EASEMENT
IPF	IRON PIN FOUND
DIE	DRAINAGE EASEMENT
ROW	RIGHT OF WAY
U/E	UTILITY EASEMENT
PL	PIPE LINE



PRELIMINARY PLAT

Bricktown East

PUD - 318

A TRACT OF LAND THAT IS PART OF THE SOUTHEAST QUARTER (SE/4) OF SECTION FOUR (4), TOWNSHIP EIGHTEEN (18) NORTH, RANGE FOURTEEN (14) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA

CURVE TABLE					
CURVE #	LENGTH (FT)	RADIUS (FT)	DELTA	CHORD BEARING	CHORD DISTANCE (FT)
1	39.21	25.00	90°	N43° 36' 21"E	35.31
2	39.33	25.00	90°	S46° 23' 40"E	35.40
3	39.31	25.00	90°	S46° 22' 26"E	35.39
4	39.23	25.00	90°	N43° 37' 34"E	35.32
5	39.92	23.60	97°	N43° 37' 34"E	35.32
6	39.31	25.00	90°	S46° 22' 26"E	35.39
7	49.57	215.00	13°	N7° 55' 41"W	49.46
8	30.01	215.00	8°	N18° 31' 52"W	29.98
9	44.68	25.00	102°	N28° 40' 06"E	38.97
10	27.99	185.00	9°	N84° 12' 02"E	27.96
11	NOT USED				
12	81.10	200.00	23°	S12° 56' 22"E	80.54
13	66.76	185.00	21°	S11° 39' 39"E	66.40
14	43.40	25.00	99°	S71° 43' 57"E	38.15
15	80.60	200.00	23°	N76° 59' 22"E	80.06
16	24.12	200.00	7°	N61° 59' 20"E	24.11
17	29.44	215.00	8°	N84° 36' 44"E	29.42
18	46.97	215.00	13°	N74° 25' 49"E	46.88
19	36.17	215.00	10°	N63° 21' 09"E	36.12
20	39.27	25.00	90°	N13° 32' 01"E	35.36
21	25.86	25.01	59°	N61° 50' 33"W	24.72
22	67.65	55.00	70°	N56° 13' 43"W	63.47
23	38.15	55.00	40°	N1° 07' 04"W	37.39
24	38.18	55.00	40°	N38° 38' 39"E	37.42
25	41.54	55.00	43°	N80° 10' 11"E	40.56
26	34.80	55.00	36°	S60° 04' 05"E	34.22
27	62.76	55.00	65°	S9° 15' 10"E	59.41
28	4.89	55.00	5°	S25° 59' 06"W	4.89
29	26.18	25.00	60°	S1° 28' 00"E	25.00
30	39.27	25.00	90°	S76° 27' 59"E	35.36
31	39.27	25.00	90°	N13° 32' 01"E	35.36
32	39.27	25.00	90°	S76° 27' 59"E	35.36

CURVE TABLE					
CURVE #	LENGTH (FT)	RADIUS (FT)	DELTA	CHORD BEARING	CHORD DISTANCE (FT)
33	69.79	185.00	22°	N42° 16' 23"W	69.37
34	3.30	185.00	1°	N53° 35' 27"W	3.30
35	79.01	200.00	23°	S42° 47' 03"E	78.50
36	43.29	215.00	12°	S48° 20' 01"E	43.22
37	41.65	215.00	11°	S37° 00' 57"E	41.58
38	25.38	25.00	58°	N83° 10' 51"W	24.30
39	10.61	25.00	24°	S55° 34' 57"W	10.53
40	50.78	55.00	53°	S69° 52' 36"W	49.00
41	79.08	55.00	82°	N42° 28' 46"W	72.44
42	74.96	55.00	78°	N37° 45' 30"E	69.29
43	33.76	55.00	35°	S85° 36' 45"E	33.23
44	41.84	55.00	44°	S46° 14' 16"E	40.84
45	12.94	25.00	30°	S39° 16' 27"E	12.80
46	13.42	115.00	7°	N61° 52' 38"E	13.41
47	8.27	85.00	6°	N61° 19' 16"E	8.27
48	121.79	115.00	61°	S84° 26' 27"E	116.17
49	117.57	100.00	67°	S87° 47' 03"E	110.92
50	91.67	85.00	62°	S84° 59' 49"E	87.29
51	108.50	115.00	54°	N27° 04' 21"W	104.52
52	157.08	100.00	90°	S9° 06' 06"E	141.42
53	133.52	85.00	90°	S9° 06' 06"E	120.21
54	64.63	115.00	32°	N16° 03' 27"E	63.79
55	7.51	115.00	4°	N34° 01' 42"E	7.50
56	6.20	115.00	3°	S34° 21' 12"W	6.20
57	70.57	115.00	35°	S15° 13' 37"W	69.47
58	102.91	115.00	51°	S27° 59' 26"E	99.51
59	1.20	85.00	1°	S35° 29' 39"W	1.20
60	131.61	85.00	89°	S9° 16' 07"E	118.85
61	12.15	100.00	7°	S57° 06' 32"E	12.15
62	11.33	100.00	6°	S57° 20' 47"E	11.32
63	13.71	27.00	29°	S68° 10' 09"E	13.56

LINE TABLE		
LINE #	LENGTH (FT)	BEARING
L1	28.12	S38° 29' 05"E
L2	58.72	S70° 39' 04"E
L3	36.96	S70° 39' 04"E
L4	30.23	N35° 25' 38"E
L5	10.50	N88° 32' 05"E
L6	45.21	N78° 20' 36"E
L7	9.86	S1° 19' 24"E
L8	20.00	N88° 32' 05"E
L9	14.00	N58° 32' 01"E
L10	13.75	N58° 38' 05"E
L11	4.29	N88° 32' 05"E
L12	10.11	S31° 27' 59"E
L13	17.48	N88° 42' 45"E
L14	2.18	S54° 06' 07"E
L15	13.88	S54° 06' 07"E
L16	10.53	S30° 03' 47"E
L17	17.50	N35° 53' 53"E
L18	17.50	N35° 53' 53"E
L19	10.82	N35° 53' 53"E
L20	32.44	S82° 42' 40"E
L21	45.95	S53° 37' 38"E
L22	5.51	N53° 37' 38"W
L23	22.70	S60° 35' 27"E
L24	26.07	S54° 06' 07"E
L25	49.17	N35° 53' 53"E
L26	0.38	S0° 00' 00"E
L27	13.87	N88° 34' 32"E
L28	21.70	S54° 06' 07"E
L29	10.13	S31° 27' 59"E
L30	36.56	S24° 33' 20"E
L31	4.07	N53° 37' 38"W

PRELIMINARY PLAT
Bricktown East
PUD - 318

DEED OF DEDICATION AND RESTRICTIVE COVENANTS

AREA AND PERFORM SUCH MAINTENANCE, AND THE COST THEREOF SHALL BE PAID BY THE OWNER THEREOF.

IN THE EVENT THE OWNER OF RESERVE AREA 'A' FAILS TO PAY THE COST OF SAID MAINTENANCE AFTER COMPLETION OF THE MAINTENANCE AND RECEIPT OF STATEMENT OF COSTS, THE CITY OF BROKEN ARROW, OKLAHOMA, MAY FILE OF RECORD A COPY OF THE STATEMENT OF COSTS AND THEREAFTER THE COSTS SHALL BECOME A LIEN AGAINST EACH OF THE LOTS WITHIN THE SUBDIVISION, WHICH LIEN MAY BE FORECLOSED BY THE CITY OF BROKEN ARROW, OKLAHOMA; OR THE CITY OF BROKEN ARROW MAY ADD SUCH BILLING PRORATED UPON THE LOT OWNERS' WATER BILL. WHICH METHOD OF COLLECTION SHALL BE DETERMINED BY THE CITY OF BROKEN ARROW.

B. RESERVE AREA 'B'

RESERVE 'B' AS DESIGNATED ON THE ACCOMPANYING PLAT, IS HEREBY ESTABLISHED BY GRANT OF THE OWNER FOR THE COMMON USE AND BENEFIT OF THE OWNERS OF THE RESIDENTIAL LOTS WITHIN BRICKTOWN EAST, THEIR GUESTS AND INVITEES. FOR THE PURPOSE OF CONSTRUCTING PRIVATE STREETS PROVIDING ACCESS TO AND FROM PUBLIC STREETS, FOR PROVIDING DRAINAGE FACILITIES TO CONTROL STORM WATER RUNOFF, FOR UTILITIES AND FOR PROVIDING ENTRANCE SECURITY FACILITIES, DECORATIVE FENCING AND LANDSCAPING, AND IS RESERVED FOR SUBSEQUENT CONVEYANCE TO THE HOMEOWNERS' ASSOCIATION, TO BE FORMED PURSUANT TO SECTION III. HEREOF FOR THE PURPOSES OF THE OWNERSHIP, ADMINISTRATION AND MAINTENANCE OF THE PRIVATE STREETS. STORM WATER FACILITIES AND OTHER COMMON AREAS OF THE SUBDIVISION. RESERVE 'B,' WHETHER OR NOT SO DESIGNATED ON THE ACCOMPANYING PLAT. IS HEREBY ADDITIONALLY DEDICATED AS A UTILITY EASEMENT.

THE OWNER HEREBY GRANTS TO THE CITY OF BROKEN ARROW, OKLAHOMA, THE UNITED POSTAL SERVICE, ANY PUBLIC UTILITY PROVIDING UTILITY SERVICE TO THE SUBDIVISION, AND TO THE REFUSE COLLECTION SERVICE WHICH PROVIDES SERVICE WITHIN THE SUBDIVISION, THE RIGHT TO ENTER AND TRAVERSE THE PRIVATE STREETS WITHIN RESERVE 'B' AND TO OPERATE THEREON ALL SERVICE, EMERGENCY AND GOVERNMENT VEHICLES INCLUDING, BUT NOT LIMITED TO POLICE AND FIRE VEHICLES AND EQUIPMENT.

THE OWNER, FOR ITSELF, ITS SUCCESSORS, AND THE HOMEOWNERS' ASSOCIATION TO BE FORMED PURSUANT TO SECTION II. HEREOF, HEREBY COVENANTS WITH THE CITY OF BROKEN ARROW, OKLAHOMA. WHICH COVENANTS SHALL RUN WITH THE LAND AND INURE TO THE BENEFIT OF THE CITY OF BROKEN ARROW, OKLAHOMA, AND SHALL BE ENFORCEABLE BY THE CITY OF BROKEN ARROW, OKLAHOMA, TO:

1. CONSTRUCT AND MAINTAIN STREET SURFACING EXTENDING THE FULL LENGTH OF THE PRIVATE STREETS DEPICTED WITHIN RESERVE 'A', AND MEETING OR EXCEEDING CITY OF BROKEN ARROW DESIGN STANDARDS FOR A RESIDENTIAL PUBLIC STREET.
2. PROHIBIT THE ERECTION OF ANY ARCH OR SIMILAR STRUCTURE OVER A PRIVATE STREET DEPICTED WITHIN RESERVE 'A' WHICH WOULD PROHIBIT THE PASSAGE OF GOVERNMENTAL VEHICLE, SPECIFICALLY FIRE VEHICLES, FROM FREE USAGE OF THE PRIVATE STREETS.
3. SECURE INSPECTION BY THE CITY OF BROKEN ARROW, OKLAHOMA OF THE PRIVATE STREETS AND SECURE CERTIFICATION BY THE CITY OF BROKEN ARROW. OKLAHOMA THAT THE PRIVATE STREETS HAVE BEEN CONSTRUCTED IN ACCORDANCE WITH THE STANDARDS ABOVE SET FORTH, OR IF THE CITY OF BROKEN ARROW, OKLAHOMA, DECLINES TO INSPECT THE PRIVATE STREETS, CERTIFICATION SHALL BE SECURED FROM A LICENSED PROFESSIONAL ENGINEER THAT THE PRIVATE STREETS WERE CONSTRUCTED IN ACCORDANCE WITH THE STANDARDS ABOVE SET FORTH, AND THE REQUIRED CERTIFICATION SHALL BE FILED WITH THE BROKEN ARROW ENGINEERING DEPARTMENT PRIOR TO THE ISSUANCE OF A BUILDING PERMIT FOR ANY LOT THAT DERIVES ITS ACCESS FROM A PRIVATE STREET.

SECTION III. HOMEOWNERS' ASSOCIATION

A. FORMATION OF HOMEOWNERS' ASSOCIATION

THE OWNER HAS FORMED OR SHALL CAUSE TO BE FORMED IN ACCORDANCE WITH THE STATUTES OF THE STATE OF OKLAHOMA THE BRICKTOWN EAST HOMEOWNERS' ASSOCIATION, INC., A NONPROFIT ENTITY (SOMETIMES REFERRED TO HEREIN AS THE HOMEOWNERS' ASSOCIATION OR ASSOCIATION"), THE HOMEOWNERS' ASSOCIATION SHALL BE FORMED FOR THE GENERAL PURPOSE OF MAINTAINING ALL RESERVE AREAS AND OTHER COMMON AREAS WITHIN BRICKTOWN EAST, AND OTHERWISE ENHANCING THE VALUE, DESIRABILITY AND ATTRACTIVENESS OF THE SUBDIVISION.

B. MEMBERSHIP

EVERY PERSON OR ENTITY WHO IS A RECORD OWNER OF THE FEE INTEREST OF A LOT SHALL BE A MEMBER OF THE HOMEOWNERS' ASSOCIATION. MEMBERSHIP SHALL BE APPURTENANT TO AND SHALL NOT BE SEPARATED FROM THE OWNERSHIP OF A LOT. THE ACCEPTANCE OF A DEED TO A LOT SHALL CONSTITUTE ACCEPTANCE OF MEMBERSHIP TO THE HOMEOWNERS' ASSOCIATION AS OF THE DATE OF INCORPORATION, OR AS OF THE DATE OF RECORDING OF THE DEED, WHICHEVER OCCURS LAST

C. 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 TO THE HOMEOWNERS' 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 MITIGATION, ALL RESERVE AREAS DESIGNATED ON THE PLAT. SAID ASSESSMENTS WILL BE ESTABLISHED BY THE BOARD OF DIRECTORS IN ACCORDANCE WITH THE DECLARATION AND THE BYLAWS OF THE HOMEOWNERS' ASSOCIATION. AN UNPAID ASSESSMENT, PROPERLY FILED, SHALL BECOME A LIEN UPON THE LOT AGAINST WHICH IT IS MADE. THE LIEN, HOWEVER, SHALL BE SUBORDINATE TO THE LIEN OF ANY FIRST MORTGAGE.

D. SPECIAL ASSESSMENTS

IN ADDITION TO THE ASSESSMENTS AUTHORIZED ABOVE, THE HOMEOWNERS' ASSOCIATION MAY LEVY A SPECIAL ASSESSMENT FOR THE PURPOSE OF DEFRAYING, IN WHOLE OR IN PART, THE COSTS OF ANY CONSTRUCTION OR RECONSTRUCTION, REPAIR OR REPLACEMENT OF A CAPITAL IMPROVEMENT UPON THE COMMON AREA OR ENTRYWAYS, INCLUDING THE NECESSARY FIXTURES AND PERSONAL PROPERTY RELATED THERETO, AND PAYMENT FOR ANY EXPENSES DEEMED NECESSARY AND APPROPRIATE BY THE BOARD OF DIRECTORS, SUBJECT TO THE TERMS OF AND MORE PARTICULARLY PROVIDED IN THE HOMEOWNERS' ASSOCIATION'S BYLAWS.

E. ENFORCEMENT RIGHTS OF THE ASSOCIATION

WITHOUT IMITATION OF SUCH OTHER POWERS AND RIGHTS AS THE HOMEOWNERS' ASSOCIATION MAY HAVE, THE HOMEOWNERS' 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.

F. RESERVE AREAS

ALL RESERVE AREAS SHALL BE MAINTAINED BY THE OWNER UNTIL SUCH TIME AS THE HOMEOWNERS' ASSOCIATION IS FORMED AND OWNERSHIP OF SUCH RESERVE AREA IS CONVEYED TO THE ASSOCIATION. FROM AND AFTER SAID DATE, THE HOMEOWNERS' ASSOCIATION SHALL BE RESPONSIBLE FOR THE OPERATION AND MAINTENANCE OF SUCH RESERVE AREAS AND ALL COSTS AND EXPENSES ASSOCIATED THERewith, INCLUDING MAINTENANCE OF VARIOUS IMPROVEMENTS AND RECREATIONAL FACILITIES.

G. INDEMNIFICATION OF OWNER AND CITY

THE HOMEOWNERS' ASSOCIATION AND ITS MEMBERS SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER AND THE CITY OF BROKEN ARROW, THEIR RESPECTIVE AGENTS AND REPRESENTATIVES, FROM ANY CLAIMS, LIABILITIES OR DAMAGES ARISING IN CONNECTION

BRICKTOWN EAST - PUD 318

DEED OF DEDICATION AND RESTRICTIVE COVENANTS

KNOW ALL MEN BY THESE PRESENTS:

BRICKTOWN EAST, LLC., HEREINAFTER REFERRED TO AS "GRANTOR", IS THE OWNER OF THE FOLLOWING DESCRIBED LAND IN THE CITY OF BROKEN ARROW, TULSA COUNTY, STATE OF OKLAHOMA, TO WIT:

A TRACT OF LAND THAT IS PART OF THE SOUTHEAST QUARTER (SE/4) OF SECTION FOUR (4), TOWNSHIP EIGHTEEN (18) NORTH, RANGE FOURTEEN (14) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE UNITED STATES GOVERNMENT SURVEY THEREOF, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

STARTING AT THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER (SE/4); THENCE DUE NORTH ALONG THE EASTERLY LINE OF THE SOUTHEAST QUARTER (SE/4) FOR 755.36 FEET TO A POINT ON THE SOUTHEASTERLY EXTENSION OF THE NORTHEASTERLY LINE OF "FRANKLIN INDUSTRIAL DISTRICT", AN ADDITION TO THE CITY OF BROKEN ARROW, TULSA COUNTY, OKLAHOMA, ACCORDING TO THE RECORDED PLAT NO. 3246; THENCE N 52°51'45" W ALONG SAID EXTENSION AND NORTHEASTERLY LINE FOR 485.26 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND, SAID POINT BEING THE MOST NORTHERLY CORNER OF SAID "FRANKLIN INDUSTRIAL DISTRICT", SAID POINT ALSO BEING ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF THE M.&K.T. RAILWAY; THENCE S 37°08'15" W ALONG THE NORTHWESTERLY LINE OF "FRANKLIN INDUSTRIAL DISTRICT" FOR 310.00 FEET TO THE MOST WESTERLY CORNER THEREOF; THENCE N 52°51'45" W ALONG THE NORTHWESTERLY EXTENSION OF THE SOUTHWESTERLY LINE OF "FRANKLIN INDUSTRIAL DISTRICT" FOR 170.00 FEET; THENCE S 89°46'27" W AND PARALLEL WITH THE SOUTHERLY LINE OF THE SOUTHEAST QUARTER (SE/4) FOR 354.05 FEET TO A POINT ON THE EASTERLY LINE OF LOT ONE (1) IN BLOCK ONE (1) OF "HUDIMAX BROKEN ARROW, A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER (SE/4) OF SECTION FOUR (4), TOWNSHIP EIGHTEEN (18) NORTH, RANGE FOURTEEN (14) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, OKLAHOMA, ACCORDING TO THE RECORDED PLAT NO. 6095; THENCE N 00°13'33" W ALONG SAID EASTERLY LINE FOR 0.38 FEET TO THE NORTHEAST CORNER OF SAID LOT ONE (1); THENCE S 89°46'27" W ALONG THE NORTHERLY LINE OF LOT ONE (1) FOR 233.00 FEET TO THE NORTHWEST CORNER THEREOF; THENCE S00°13'33"E FOR 155.16 FEET; THENCE S59°52'27"W FOR 304.60 FEET; THENCE S89°46'27"W FOR 701.36 FEET; THENCE N01°19'24"W FOR 384.99 FEET; THENCE N88°34'32"E FOR 328.00; THENCE N88°56'58"E FOR 338.00 FEET; THENCE N88°56'58"E FOR 615.64 FEET; THENCE N 00°02'53" W ALONG THE WESTERLY LINE OF THE NORTHEAST QUARTER (NE/4) OF THE SOUTHEAST QUARTER (SE/4) FOR 436.80 FEET TO A POINT ON THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF THE M.&K.T. RAILWAY; THENCE S 52°51'45" E ALONG SAID RIGHT-OF-WAY LINE FOR 1168.75 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND.

SAID TRACT OF LAND CONTAINING 1,024,208.88 SQUARE FEET OR 23.51 ACRES.

SECTION I. EASEMENTS AND UTILITIES

A. PUBLIC UTILITY EASEMENTS

THE OWNER DOES HEREBY DEDICATE TO THE PUBLIC THE UTILITY EASEMENTS DESIGNATED AS "U/E" OR "UTILITY EASEMENT" 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, MANHOLES 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 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 RELAYING OVER, ACROSS AND ALONG ALL OF 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 HEREBY IMPOSES A RESTRICTIVE COVENANT, WHICH COVENANT SHALL BE BINDING ON THE LOT OWNER 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 THAT INTERFERES WITH THE ABOVE SET FORTH USES AND PURPOSES OF THE UTILITY EASEMENTS SHALL BE PLACED, ERECTED, INSTALLED OR MAINTAINED, PROVIDED HOWEVER, NOTHING HEREIN SHALL BE DEEMED TO PROHIBIT DRIVES, PARKING AREAS, CURBING, LANDSCAPING, AND CUSTOMARY SCREENING FENCES THAT DO NOT CONSTITUTE AN OBSTRUCTION.

B. UTILITY SERVICE

1. OVERHEAD POLES FOR THE SUPPLY OF ELECTRIC AND COMMUNICATION SERVICE MAY BE LOCATED IN THE PERMITTER UTILITY EASEMENT AND THE PERIMETER RIGHT-OF-WAYS OF THE SUBDIVISION. STREET LIGHT POLES OR STANDARDS MAY BE SERVED BY OVERHEAD OR UNDERGROUND CABLE, AND ELSEWHERE THROUGHOUT THE SUBDIVISION, ALL SUPPLY LINES INCLUDING ELECTRIC, TELEPHONE, CABLE TELEVISION AND GAS LINES SHALL BE LOCATED UNDERGROUND IN EASEMENTS DEDICATED FOR GENERAL UTILITY SERVICES AND IN THE RIGHTS-OF-WAY OF THE PUBLIC STREETS AS DEPICTED UPON THE ACCOMPANYING PLAT. SERVICE PEDESTALS AND TRANSFORMERS, AS SOURCES OF SUPPLY AT SECONDARY VOLTAGES, MAY ALSO BE LOCATED IN THE GENERAL UTILITY EASEMENTS.
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. UNDERGROUND SERVICE CABLES AND GAS SERVICE LINES TO ALL STRUCTURES WITHIN THE SUBDIVISION MAY BE EXTENDED FROM THE NEAREST GAS MAIN, SERVICE PEDESTAL OR TRANSFORMER TO THE POINT OF USAGE DETERMINED BY THE LOCATION AND CONSTRUCTION OF SUCH STRUCTURE UPON THE LOT, PROVIDED UPON INSTALLATION OF 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 NON-EXCLUSIVE EASEMENT ON THE LOT, COVERING A 5 FOOT STRIP EXTENDING 2.5 FEET ON EACH SIDE OF THE SERVICE CABLE OR LINE EXTENDING FROM THE GAS MAIN, SERVICE PEDESTAL OR TRANSFORMER TO THE SERVICE ENTRANCE ON THE STRUCTURE.
3. 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 UTILITY EASEMENTS SHOWN ON THE PLAT OR OTHERWISE 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 INSTALLED BY THE SUPPLIER OF THE UTILITY SERVICE.
4. THE LOT OWNER SHALL BE RESPONSIBLE FOR THE PROTECTION OF THE OVERHEAD AND/OR UNDERGROUND SERVICE FACILITIES LOCATED ON THE OWNER'S LOT AND SHALL PREVENT THE ALTERATION OF GRADE OR ANY CONSTRUCTION ACTIVITY WHICH MAY INTERFERE WITH SAID ELECTRIC, TELEPHONE, CABLE TELEVISION OR GAS FACILITIES. EACH SUPPLIER OF THESE SERVICES SHALL BE RESPONSIBLE FOR ORDINARY MAINTENANCE OF OVERHEAD AND/OR UNDERGROUND FACILITIES, BUT THE LOT OWNER SHALL PAY FOR DAMAGE OR RELOCATION OF SUCH FACILITIES CAUSED OR NECESSITATED BY ACTS OF THE OWNER OR THE OWNER'S AGENTS OR CONTRACTORS.
5. THE COVENANTS SET FORTH IN THIS SUBSECTION SHALL BE ENFORCEABLE BY EACH SUPPLIER OF THE ELECTRIC, TELEPHONE, CABLE TELEVISION OR GAS SERVICE AND THE LOT OWNER AGREES TO BE BOUND BY THESE COVENANTS.

C. WATER, SANITARY SEWER AND STORM SEWER SERVICE

1. THE LOT OWNER SHALL BE RESPONSIBLE FOR THE PROTECTION OF THE PUBLIC WATER MAINS, SANITARY SEWER MAINS AND STORM SEWERS LOCATED ON THE PROPERTY.
2. WITHIN THE UTILITY EASEMENTS DEPICTED ON THE ACCOMPANYING PLAT, THE ALTERATION OF GRADE FROM THE CONTOURS EXISTING UPON THE MODIFICATION OR INSTALLATION OF A PUBLIC WATER MAIN, SANITARY SEWER MAIN OR STORM SEWER, OR ANY CONSTRUCTION ACTIVITY WHICH WOULD, IN THE JUDGMENT OF THE CITY OF BROKEN ARROW INTERFERE WITH PUBLIC WATER MAINS, SANITARY SEWER MAINS, AND STORM SEWERS SHALL BE PROHIBITED.
3. THE CITY OF BROKEN ARROW, OKLAHOMA, OR ITS SUCCESSORS, SHALL BE RESPONSIBLE FOR THE ORDINARY MAINTENANCE OF PUBLIC WATER MAINS AND SANITARY SEWER MAINS AND STORM SEWERS, BUT THE LOT OWNER SHALL PAY FOR DAMAGE OR RELOCATION OF SUCH FACILITIES CAUSED OR NECESSITATED BY ACTS OF THE OWNER, OR THE OWNER'S AGENTS AND /OR CONTRACTORS.
4. THE CITY OF BROKEN ARROW, OKLAHOMA, OR ITS SUCCESSORS, SHALL AT ALL TIMES HAVE RIGHT OF ACCESS TO ALL UTILITY EASEMENTS DEPICTED UPON 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 PUBLIC WATER, SANITARY SEWER, OR STORM SEWER FACILITIES.
5. THE COVENANTS SET FORTH IN THIS SUBSECTION SHALL BE ENFORCEABLE BY THE CITY OF BROKEN ARROW, OKLAHOMA OR ITS SUCCESSORS, AND THE LOT OWNER AGREES TO BE BOUND BY THESE COVENANTS.

D. GAS SERVICE

1. THE SUPPLIER OF GAS SERVICE, THROUGH ITS AGENTS AND EMPLOYEES SHALL AT ALL TIMES HAVE THE RIGHT OF ACCESS TO ALL UTILITY EASEMENTS SHOWN ON THE PLAT OR OTHERWISE PROVIDED FOR IN THIS DEED OF DEDICATION FOR THE PURPOSE OF INSTALLING, MAINTAINING, REMOVING OR REPLACING ANY PORTION OF THE FACILITIES INSTALLED BY THE SUPPLIER OF GAS SERVICE.
2. THE LOT OWNER SHALL BE RESPONSIBLE FOR THE PROTECTION OF THE UNDERGROUND GAS FACILITIES LOCATED WITHIN THE LOT AND SHALL PREVENT THE ALTERATION OF GRADE OR ANY OTHER CONSTRUCTION ACTIVITY WHICH WOULD INTERFERE WITH GAS SERVICE. THE SUPPLIER OF GAS SERVICES SHALL BE RESPONSIBLE FOR THE ORDINARY MAINTENANCE OF ITS FACILITIES, BUT THE LOT OWNER SHALL PAY FOR DAMAGE OR RELOCATION OF FACILITIES CAUSED OR NECESSITATED BY ACTS OF THE LOT OWNER OR ITS AGENTS OR CONTRACTORS.
3. THE COVENANTS SET FORTH IN THIS SUBSECTION SHALL BE ENFORCEABLE BY THE SUPPLIER OF THE GAS SERVICE AND THE LOT OWNER AGREES TO BE BOUND BY THESE COVENANTS.

E. SURFACE DRAINAGE

THE LOT SHALL RECEIVE AND DRAIN, IN AN UNOBSTRUCTED MANNER, THE STORMWATER FROM LOTS AND DRAINAGE AREAS OF HIGHER ELEVATION. THE LOT OWNER SHALL NOT CONSTRUCT OR PERMIT TO BE CONSTRUCTED ANY OBSTRUCTIONS WHICH WOULD IMPAIR THE DRAINAGE OF STORM AND SURFACE WATERS OVER AND ACROSS THE OWNER'S LOT. THE COVENANTS SET FORTH IN THIS SUBSECTION SHALL BE ENFORCEABLE BY ANY AFFECTED LOT OWNER AND BY THE CITY OF BROKEN ARROW, OKLAHOMA.

F. SIDEWALKS; PUBLIC SIDEWALK EASEMENT

SIDEWALKS SHALL BE CONSTRUCTED AND MAINTAINED BY THE LOT OWNER IN ACCORDANCE WITH THE BROKEN ARROW SUBDIVISION AND DEVELOPMENT REGULATIONS AND IN ACCORDANCE WITH THE STANDARDS OF THE CITY OF BROKEN ARROW. ALL SUCH SIDEWALKS SHALL BE CONSTRUCTED PRIOR TO THE ISSUANCE OF CERTIFICATE OF OCCUPANCY FOR ANY BUILDING WITHIN THE SUBDIVISION. TO THE EXTENT SAID SIDEWALKS, AS DEPICTED ON THE ACCOMPANYING PLAT, EXTEND OUTSIDE OF THE RIGHT OF WAY THE OWNER HEREBY DEDICATES TO THE PUBLIC A PERPETUAL EASEMENT ON, OVER, AND ACROSS THE LOT FOR CONSTRUCTION, MAINTENANCE AND USE AS A PUBLIC SIDEWALK.

G. PAVING AND LANDSCAPING WITHIN EASEMENTS

THE LOT OWNER SHALL BE RESPONSIBLE FOR THE REPAIR OF DAMAGE TO LANDSCAPING AND PAVING OCCASIONED BY INSTALLATION OR NECESSARY MAINTENANCE OF UNDERGROUND WATER, SANITARY SEWER, STORM SEWER, NATURAL GAS, COMMUNICATION, CABLE TELEVISION, OR ELECTRIC FACILITIES WITHIN THE EASEMENT AREAS DEPICTED UPON THE ACCOMPANYING PLAT, PROVIDED THE CITY OF BROKEN ARROW, OKLAHOMA, OR ITS SUCCESSORS, OR THE SUPPLIER OF THE UTILITY SERVICE SHALL USE REASONABLE CARE IN THE PERFORMANCE OF SUCH ACTIVITIES.

H. OTHER USES

THE LOT OWNERS ON WHICH THE EASEMENTS ARE SITUATED HAVE THE RIGHT TO USE THE EASEMENTS IN ANY MANNER THAT WILL NOT PREVENT OR INTERFERE WITH THE EXERCISE BY THE CITY OF BROKEN ARROW OF THE RIGHTS GRANTED UNDER THIS DEDICATION.

I. CERTIFICATE OF OCCUPANCY RESTRICTIONS

NO CERTIFICATE OF OCCUPANCY FOR A BUILDING WITHIN THE SUBDIVISION SHALL BE ISSUED BY THE CITY OF BROKEN ARROW, OKLAHOMA UNTIL CONSTRUCTION OF THE REQUIRED INFRASTRUCTURE (STREETS, WATER, SANITARY SEWER, STORM SEWER SYSTEMS AND SIDEWALKS) SERVING THE ENTIRE SUBDIVISION HAS BEEN COMPLETED AND ACCEPTED BY THE CITY. NOTWITHSTANDING THE FOREGOING, THE CITY MAY AUTHORIZE THE ISSUANCE OF A TEMPORARY CERTIFICATE OF OCCUPANCY IF, IN THE CITY'S SOLE DISCRETION, THE CIRCUMSTANCES SUPPORT THE ISSUANCE. FURTHER NOTWITHSTANDING THE FOREGOING, THE CITY MAY AUTHORIZE THE PHASING OF THE CONSTRUCTION OF INFRASTRUCTURE WITHIN THE SUBDIVISION, AND IF PHASING IS AUTHORIZED, A CERTIFICATE OF OCCUPANCY FOR A BUILDING WITHIN AN AUTHORIZED PHASE MAY ISSUE UPON THE COMPLETION AND ACCEPTANCE OF THE INFRASTRUCTURE SERVING THE PARTICULAR PHASE. BUILDING CONSTRUCTION OCCURRING PRIOR TO THE CITY'S ACCEPTANCE OF THE INFRASTRUCTURE SHALL BE AT THE RISK OF THE OWNER OF THE LOT, NOTWITHSTANDING THE ISSUANCE OF A BUILDING PERMIT OR OF A TEMPORARY CERTIFICATE OF OCCUPANCY.

SECTION II. RESERVE AREAS

A. RESERVE AREA 'A'

FOR THE COMMON USE AND BENEFIT OF THE OWNERS OF LOTS WITHIN THE SUBDIVISION, AND FOR THE BENEFIT OF THE CITY OF BROKEN ARROW, OKLAHOMA, THE OWNER HEREBY ESTABLISHES AND GRANTS PERPETUAL EASEMENTS ON, OVER AND ACROSS RESERVE AREA 'A' AS DESIGNATED ON THE ACCOMPANYING PLAT FOR THE PURPOSES OF PERMITTING THE FLOW, CONVEYANCE, AND DISCHARGE OF STORM WATER RUNOFF FROM THE VARIOUS LOTS WITHIN THE SUBDIVISION, AND FROM PROPERTIES OUTSIDE THE SUBDIVISION, AND FOR THE PURPOSES OF INSTALLATION AND MAINTENANCE OF UTILITIES.

STORM WATER DETENTION AND DRAINAGE FACILITIES CONSTRUCTED SHALL BE IN ACCORDANCE WITH ADOPTED STANDARDS OF THE CITY OF BROKEN ARROW AND PLANS AND SPECIFICATIONS APPROVED BY THE CITY OF BROKEN ARROW ENGINEERING DEPARTMENT.

NO FENCE, WALL, BUILDING, OR OTHER OBSTRUCTION MAY BE PLACED OR MAINTAINED IN RESERVE AREA 'A' UNLESS APPROVED BY THE CITY OF BROKEN ARROW ENGINEERING DEPARTMENT, NOR SHALL THERE BE ANY ALTERATION OF THE GRADE OR CONTOURS IN RESERVE AREA 'A' UNLESS APPROVED BY THE CITY OF BROKEN ARROW ENGINEERING DEPARTMENT.

RESERVE AREA 'A' AND THE FACILITIES THEREON LOCATED SHALL BE MAINTAINED BY THE OWNER THEREOF AND THE MAINTENANCE SHALL BE PERFORMED TO THE EXTENT NECESSARY TO ACHIEVE THE INTENDED DRAINAGE FUNCTIONS, INCLUDING REPAIR OF APPURTENANCES AND REMOVAL OF OBSTRUCTIONS AND SILTATION.

IN THE EVENT THE OWNER OF RESERVE AREA 'A' SHOULD FAIL TO PROPERLY MAINTAIN RESERVE AREA 'A' OR FACILITIES THEREON LOCATED AS ABOVE PROVIDED, THE CITY OF BROKEN ARROW, OKLAHOMA, OR ITS DESIGNATED CONTRACTOR, MAY ENTER THE RESERVE

WITH THE OWNERSHIP AND USE OF THE FACILITIES AND IMPROVEMENTS CONSTRUCTED OR SITUATED IN THE RESERVES.

SECTION IV. PLANNED UNIT DEVELOPMENT RESTRICTIONS

WHEREAS, BRICKTOWN EAST WAS SUBMITTED AS PART OF A PLANNED UNIT DEVELOPMENT (DESIGNATED AS PUD-318) AS PROVIDED WITHIN SECTIONS 6.4 ET SEQ. OF THE CITY OF BROKEN ARROW ZONING CODE, AS THE SAME EXISTED ON _____, WHICH P.U.D. NO. 318 WAS APPROVED BY THE BROKEN ARROW PLANNING COMMISSION ON _____, AND BY THE BROKEN ARROW CITY COUNCIL ON _____

WHEREAS, THE PLANNED UNIT DEVELOPMENT PROVISIONS OF THE BROKEN ARROW ZONING CODE 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, OWNER DESIRES TO ESTABLISH RESTRICTIONS FOR THE PURPOSE OF PROVIDING FOR AN ORDERLY DEVELOPMENT AND TO INSURE ADEQUATE RESTRICTIONS FOR THE MUTUAL BENEFIT OF OWNER, ITS SUCCESSORS AND ASSIGNS, AND THE CITY OF BROKEN ARROW, OKLAHOMA.

THEREFORE, OWNER DOES HEREBY IMPOSE THE FOLLOWING RESTRICTIONS AND COVENANTS WHICH SHALL BE COVENANTS RUNNING WITH THE LAND AND SHALL BE BINDING UPON THE OWNER, ITS SUCCESSORS AND ASSIGNS, AND SHALL BE ENFORCEABLE AS HEREINAFTER SET FORTH.

A. USE OF LAND

ALL OF BRICKTOWN EAST SHALL BE GOVERNED BY THE USE AND DEVELOPMENT REGULATIONS OF PUD 318 EXCEPT WHERE NOT SPECIFIED, SHALL BE GOVERNED BY THE REQUIREMENTS OF THE RS-4 ZONING DISTRICT AND THE BROKEN ARROW ZONING ORDINANCE, EXCEPT AS NOTED HEREIN:

1. DEVELOPMENT AREA "A" STANDARDS	
PERMITTED USES:	USES PERMITTED AS A MATTER OF RIGHT IN THE RS-4 ZONING DISTRICT IN THE CITY OF BROKEN ARROW ZONING CODE, INCLUDING LANDSCAPED FEATURES AND SECURE ENTRANCES, RECREATIONAL FACILITIES SUCH AS TRAILS, PICNIC TABLES, AND BENCHES, AND USES CUSTOMARILY ACCESSORY TO PERMITTED USES.
MAXIMUM NUMBER OF LOTS:	95 LOTS
MINIMUM LOT FRONTAGE:	50 FT
MINIMUM LOT SIZE:	5,600 SF
MAXIMUM BUILDING HEIGHT:	35 FT *
OFF-STREET PARKING:	MINIMUM TWO ENCLOSED OFF-STREET PARKING SPACES PER DWELLING UNIT.
MINIMUM LIVABILITY SPACE:	2,800 SF
MINIMUM YARD SETBACKS:	
FRONT YARD:	20 FT
REAR YARD:	15 FT
SIDE YARD ABUTTING A PRIVATE STREET:	15 FT
SIDE YARD NOT ABUTTING A PRIVATE STREET:	5 FT **
MAXIMUM FRONT YARD COVERAGE:	50% FOR INTERIOR LOTS; 60% FOR CORNER LOTS
* ARCHITECTURAL FEATURES MAY EXTEND A MAX. OF FIVE (5) FEET ABOVE MAXIMUM PERMITTED BUILDING HEIGHT.	
**A MINIMUM OF TEN (10) FEET OF SEPARATION MUST BE MAINTAINED BETWEEN ALL BUILDINGS.	

PRIVATE STREETS: MINIMUM STREET RIGHT-OF-WAY WIDTH OF 30-FEET SHALL BE PERMITTED, WITH A MINIMUM OF 26-FEET OF PAVING. RESIDENTIAL STREETS SHALL BE CONSTRUCTED TO MEET THE STANDARDS OF THE CITY OF BROKEN ARROW FOR MINOR RESIDENTIAL STREETS. MAINTENANCE OF THE PRIVATE STREETS WITHIN THIS DEVELOPMENT SHALL BE THE RESPONSIBILITY OF THE HOMEOWNERS' ASSOCIATION.

FENCING: INTERIOR FENCING OR WALLS SHALL NOT EXTEND BEYOND THAT POINT NEAREST THE STREET AT EACH END CORNER OF THE RESIDENCE. FENCES SHALL BE A WOOD PRIVACY, ORNAMENTAL IRON, OR STOCKADE WITH BLACK CHAIN LINK. FENCES ON PRIVATE LOTS WILL BE MAINTAINED BY THE OWNER OF THE LOT. NO BARBED WIRE, MESHED OR OTHER METAL FENCING SHALL BE ALLOWED. NO FENCE OVER SIX (6) FEET TALL SHALL BE PERMITTED UNLESS APPROVED BY THE BRICKTOWN EAST ARCHITECTURAL COMMITTEE. FENCES LOCATED ON EXTERIOR SIDES OF CORNER LOTS SHALL NOT EXTEND BEYOND HALF-WAY BETWEEN THE BUILDING LINE AND PROPERTY LINES. SUBDIVISION PERIMETER FENCING ALONG NORTH ELDER PLACE WILL BE OF WOOD AND MASONRY, IN A SCALE AND DESIGN COMPATIBLE WITH THE ENTRY ELEMENTS. SUBDIVISION PERIMETER FENCING ALONG THE RAILROAD WILL BE A SOLID WOOD SCREENING FENCE, A MINIMUM OF EIGHT (8) FEET HIGH.

MASONRY: THE FIRST FLOOR OF EACH DWELLING SHALL BE A MINIMUM OF 80% MASONRY EXCLUDING WINDOWS AND BENEATH COVERED PORCHES.

LIVABILITY SPACE: LIVABILITY SPACE MAY BE LOCATED ON A LOT OR CONTAINED WITHIN COMMON OPEN SPACE OF THE DEVELOPMENT, AS PER SECTION 4.1.E.1D OF THE BROKEN ARROW ZONING CODE.

2. DEVELOPMENT AREA "B" STANDARDS

PERMITTED USES: OPEN SPACE AND DETENTION FACILITIES

FENCING: NO INTERIOR FENCING OR WALLS SHALL BE CONSTRUCTED WITHIN DEVELOPMENT AREA 'B' THAT WOULD OBSTRUCT THE NATURAL OVERLAND FLOW OF DRAINAGE TO THE DETENTION AREA.

B. SITE PLAN REVIEW

NO BUILDING PERMIT FOR A RESIDENCE WITHIN BRICKTOWN EAST SHALL BE ISSUED UNTIL A SEPARATE SITE AND LANDSCAPE PLAN HAVE BEEN SUBMITTED FOR THE GATED ENTRY AND ANY COMMON LANDSCAPED AREAS.

SECTION V. PRIVATE COVENANTS

FOR THE PURPOSE OF PROVIDING AN ORDERLY DEVELOPMENT OF THE SUBDIVISION AND FOR MAINTAINING CONFORMITY FOR THE IMPROVEMENTS THEREIN, THE FOLLOWING RESTRICTIONS AND COVENANTS ARE HEREBY IMPOSED UPON THE USE AND OCCUPANCY OF THE LOTS WITHIN THE SUBDIVISION.

DEVELOPMENT AND CONSTRUCTION STANDARDS:

1. ARCHITECTURAL COMMITTEE:

A. AN ARCHITECTURAL COMMITTEE IS HEREBY FORMED AND SHALL APPROVE ALL PLANS FOR ANY STRUCTURE TO BE BUILT ON ANY LOT AND SHALL ALSO BE RESPONSIBLE FOR INTERPRETING THE DEVELOPMENT AND CONSTRUCTION STANDARDS CONTAINED HEREIN. THE ARCHITECTURAL COMMITTEE SHALL CONSIST OF NOT MORE THAN ONE (1), NOR MORE THAN THREE (3) MEMBERS TO BE APPOINTED BY THE OWNER UNTIL RESIDENCES HAVE BEEN CONSTRUCTED ON ALL LOTS IN THE SUBDIVISION AND SOLD TO RESIDENTIAL USERS; THEREAFTER, THE MEMBERS OF THE ARCHITECTURAL COMMITTEE SHALL BE APPOINTED BY THE HOMEOWNERS' ASSOCIATION. PROVIDED, HOWEVER, THAT OWNER MAY AT ANY TIME, IN ITS SOLE DISCRETION, ASSIGN AND TRANSFER THE RESPONSIBILITY FOR THE APPOINTMENT OF THE ARCHITECTURAL COMMITTEE TO THE HOMEOWNERS'

B. ARCHITECTURAL PLANS TO BE SUBMITTED AND APPROVED IN ACCORDANCE HERE WITH SHALL INCLUDE, AT A MINIMUM, THE FOLLOWING WITH REGARD TO EACH IMPROVEMENT TO BE CONSTRUCTED OR SITUATED UPON ANY LOT IN THE SUBDIVISION.

i. AN ACCURATE SITE PLAN; AND AN ACCURATE FLOOR PLAN; AND

ii. ALL EXTERIOR ELEVATIONS; AND THE COMPOSITION OF ALL ROOFING AND EXTERNAL BUILDING MATERIALS.

iii. ALL LOTS SHALL BE USED FOR SINGLE FAMILY RESIDENTIAL USE ONLY. NO LOT SHALL BE DIVIDED INTO TWO (2) OR MORE SEPARATE LOTS FOR THE PURPOSE OF ACCOMMODATING TWO (2) OR MORE SEPARATE OWNERS OR DWELLINGS.

2. EACH DWELLING SHALL HAVE AN ATTACHED GARAGE WITH STORAGE FACILITIES FOR AT MOST TWO (2) CARS. DRIVEWAYS SHALL PROVIDE OFF-STREET PARKING SPACE FOR AT LEAST TWO (2) CARS.

3. NO WHITE WALKS OR DRIVEWAYS WILL BE PERMITTED. MATERIALS MAY BE BRICK OR CONCRETE. RIVER GRAVEL MAY BE USED FOR PRIVATE WALKWAYS WHEN COMPATIBLE TO DESIGN OF RESIDENCE, AS APPROVED BY THE ARCHITECTURAL COMMITTEE.

4. NO BUILDING SHALL BE CONSTRUCTED ON ANY LOT IN THE SUBDIVISION WHICH EXCEEDS A HEIGHT OF TWO (2) STORIES EXCEPT AS DULY APPROVED BY THE ARCHITECTURAL COMMITTEE AND BROKEN ARROW ZONING CODE.

5. ALL ROOFS WILL BE CONSTRUCTED WITH MATCHING HERITAGE II THUNDERSTORM GRAY SHINGLES OR AS OTHERWISE DETERMINED AND APPROVED BY THE ARCHITECTURAL COMMITTEE.

6. ROOF FLASHING: EXPOSED ROOF FLASHING, SUCH AS VENT PIPE AND CHIMNEY COVERS, SHALL BE PAINTED, COLOR TO MATCH ROOF.

7. ROOF PITCH: NO BUILDING SHALL HAVE A ROOF PITCH OF LESS THAN 8/12. PROVIDED HOWEVER, THE ARCHITECTURAL COMMITTEE MAY, IN THE PARTICULAR INSTANCE AND UPON WRITTEN REQUEST, APPROVE A WAIVER OF THIS RESTRICTION TO PERMIT A BUILDING HAVING A PORTION OF THE ROOF, (NOT TO EXCEED 20% OF THE TOTAL ROOF) TO BE AT A PITCH OF LESS THAN 8/12. THIS WAIVER IS PRIMARILY INTENDED FOR DORMERS AND BACK COVERED PATIOS.

8. ALL EXPOSED FOUNDATIONS SHALL BE OF BRICK OR STONE. NO CONCRETE BLOCKS, POURED CONCRETE OR ANY OTHER FOUNDATION WILL BE EXPOSED. NO STEM WALLS WILL BE EXPOSED.

9. NO BUILDING OR PART THEREOF, EXCEPT OPEN PORCHES AND TERRACES, SHALL BE CONSTRUCTED AND MAINTAINED ON ANY LOT NEARER TO THE FRONT PROPERTY LINE THAN THE BUILDING LINE ON THE PLAT. ALL BUILDINGS MUST FACE THE MOST RESTRICTIVE BUILDING LINE.

10. NO EXTERIOR ANTENNAS, INCLUDING, BUT NOT LIMITED TO, TELEVISION AND "CB" RADIO, SHALL BE ERECTED ANYWHERE IN THE SUBDIVISION WITHOUT THE EXPRESS APPROVAL OF THE ARCHITECTURAL COMMITTEE. ANY OTHER TYPE OF ELECTRONIC RECEPTION DEVICE (EXCEPT TELEVISION SATELLITE DISH NOT EXCEEDING TWENTY-FOUR INCHES (24") IN DIAMETER, WHICH ARE PERMITTED, MUST BE CONFINED TO THE BACKYARD AND SITUATED, FENCED, AND LANDSCAPED TO PROPERLY SHIELD ITS VIEW FROM ADJACENT LOT OWNERS IN ACCORDANCE WITH THE EXPRESS WRITTEN APPROVAL OF THE ARCHITECTURAL COMMITTEE.

11. NO BUILDING, FENCE, WALL OR ANY TYPE OF STRUCTURE SHALL BE PLACED, BUILT, COMMENCED, ERECTED OR MAINTAINED OR ALTERED UNTIL THE SPECIFICATIONS, PLOT PLAN, DRAINAGE AND GRADING PLANS AND OTHER NECESSARY INFORMATION SHALL HAVE BEEN SUBMITTED AND APPROVED IN WRITING BY THE ARCHITECTURAL COMMITTEE. IN PASSING SUCH PLANS, SPECIFICATIONS, PLOT PLANS, DRAINAGE AND GRADING PLANS, THE ARCHITECTURAL COMMITTEE MAY TAKE INTO CONSIDERATION THE SUITABILITY OF THE PROPOSED BUILDING OR OTHER STRUCTURES, AND OF THE MATERIALS OF WHICH IT IS TO BE BUILT, TO THE SITE UPON WHICH IT IS PROPOSED TO ERECT THE SAME, AND THE HARMONY THEREOF WITH THE SURROUNDINGS AND THE EFFECT OF THE BUILDING OR OTHER STRUCTURES AS PLANNED ON THE VIEW FROM THE ADJACENT OR NEIGHBORING PROPERTY. ALL CONSTRUCTION SHALL COMPLY WITH THE CITY OF BROKEN ARROW ORDINANCES AND BUILDING CODES.

12. NO RECREATIONAL VEHICLE, CAMPER, BOAT, TRAILER

PRELIMINARY PLAT

Bricktown East

PUD - 318

DEED OF DEDICATION AND RESTRICTIVE COVENANTS

- CONSTRUCTION TRAILER MAY BE PERMITTED FOR USE BY THE OWNER UNTIL SUCH TIME AS 75% OF THE RESIDENTIAL LOTS HAVE BEEN SOLD
25. CLOTHESLINES: EXPOSED CLOTHESLINE POLES OR OTHER OUTDOOR DRYING APPARATUS ARE PROHIBITED.
26. PRESERVATION OF TREES: IT SHALL BE THE DUTY AND OBLIGATION OF THE OWNERS OF EACH LOT TO PRESERVE AND PROTECT THE TREES LOCATED ON SUCH LOT. THE HOMEOWNERS' ASSOCIATION SHALL BE RESPONSIBLE FOR PROTECTING AND PRESERVING THE TREES ON ALL COMMON AREAS, WHICH SHALL BE A COMMON EXPENSE. THE OWNER OF EACH LOT SHALL MAKE AN EFFORT TO SAVE ALL TREES POSSIBLE AND SHALL EXERCISE CARE TO PROTECT THE ROOT SYSTEMS OF ALL TREES DURING CONSTRUCTION.
27. LANDSCAPING: WITHIN 120 DAYS OF COMPLETION OF A HOME UPON A LOT IN BRICKTOWN EAST, THE BUILDER SHALL BE RESPONSIBLE FOR SODDING ALL YARD AREAS (FRONT, SIDE AND REAR YARDS) OF THE LOT. ADDITIONALLY, EACH BUILDER SHALL PLANT THE EQUIVALENT WORTH OF \$300.00 IN LANDSCAPING MATERIALS (TREES, SHRUBS, BUSHES, GROUND COVER, ETC.) WITHIN THE FRONT YARD AREA OF EACH LOT UNDER THEIR OWNERSHIP WITHIN 120 DAYS OF COMPLETION OF HOME CONSTRUCTION, EXCLUSIVE OF SODDING AS DESCRIBED ABOVE. SUCH LOT LANDSCAPING SHALL INCLUDE A MINIMUM OF ONE (1) TREE, AT LEAST 2" IN CALIPER, TO BE LOCATED IN THE FRONT YARD AREA OF THE LOT AND OUTSIDE STREET RIGHTS-OF-WAY.
28. OUTBUILDINGS: NO DETACHED STORAGE STRUCTURES ARE ALLOWED ON ANY LOT.

SECTION VI. ENFORCEMENT, DURATION, AMENDMENT AND SEVERABILITY

A. ENFORCEMENT

THE RESTRICTIONS HEREIN SET FORTH ARE COVENANTS TO RUN WITH THE LAND AND SHALL BE BINDING UPON THE OWNER AND ITS SUCCESSORS AND ASSIGNS IN TITLE. WITHIN THE PROVISIONS OF SECTION I. 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. IN ANY JUDICIAL ACTION BROUGHT TO ENFORCE THE COVENANTS ESTABLISHED WITHIN THIS DEED OF DEDICATION, THE DEFENSE THAT THE PARTY INITIATING THE EQUITABLE PROCEEDING HAS AN ADEQUATE REMEDY AT LAW IS HEREBY WAIVED.

B. 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.

C. AMENDMENT

THE COVENANTS CONTAINED WITHIN SECTION I. 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.

D. 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: OAK PROPERTIES, LLC EXECUTED THIS INSTRUMENT THIS ____ DAY OF _____, 2020.

BRICKTOWN EAST, LLC

BY: _____

NAME: _____

TITLE: _____

ACKNOWLEDGMENT

STATE OF OKLAHOMA)

) SS:

COUNTY OF TULSA)

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS ____ DAY OF _____, 2020,

BY _____ AS _____ OF BRICKTOWN EAST, LLC.

NOTARY PUBLIC _____

MY COMMISSION NO: _____

MY COMMISSION EXPIRES: _____

[SEAL]

CERTIFICATE OF SURVEY

I, ALBERT JONES, OF ATLAS LAND OFFICE., A LICENSED PROFESSIONAL LAND SURVEYOR REGISTERED IN THE STATE OF OKLAHOMA, HEREBY CERTIFY THAT I HAVE CAREFULLY AND ACCURATELY SURVEYED, SUBDIVIDED, AND PLATTED THE TRACT OF LAND DESCRIBED ABOVE, AND THAT THE ACCOMPANYING PLAT DESIGNATED HEREIN AS "BRICKTOWN EAST", A SUBDIVISION IN THE CITY OF BROKEN ARROW, TULSA COUNTY, STATE OF OKLAHOMA, IS A REPRESENTATION OF THE SURVEY MADE ON THE GROUND USING GENERALLY ACCEPTED LAND SURVEYING PRACTICES AND MEETS OR EXCEEDS THE OKLAHOMA MINIMUM STANDARDS FOR THE PRACTICE OF LAND SURVEYING AS ADOPTED.

WITNESS MY HAND AND SEAL THIS ____ DAY OF _____, 2020.

R. ALBERT JONES _____

LICENSED PROFESSIONAL LAND SURVEYOR

ACKNOWLEDGMENT

STATE OF OKLAHOMA)

) SS:

COUNTY OF TULSA)

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS ____ DAY OF _____, 2020, BY ALBERT JONES OF ATLAS LAND OFFICE.

NOTARY PUBLIC _____

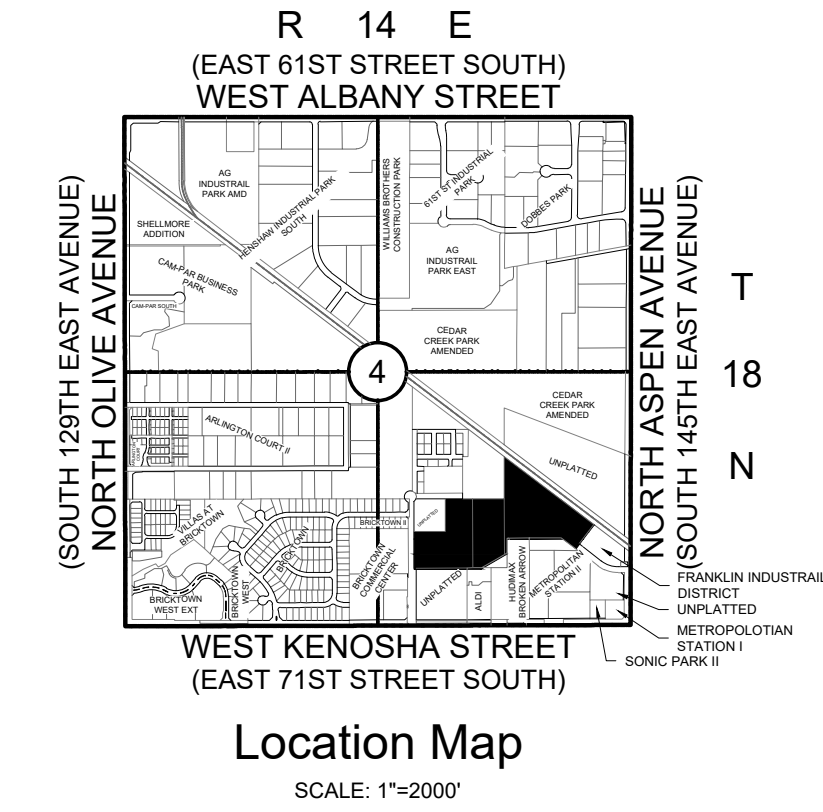
MY COMMISSION NO: _____

MY COMMISSION EXPIRES: _____

[SEAL]

CONCEPTUAL UTILITY LAYOUT
Bricktown East
PUD - 318

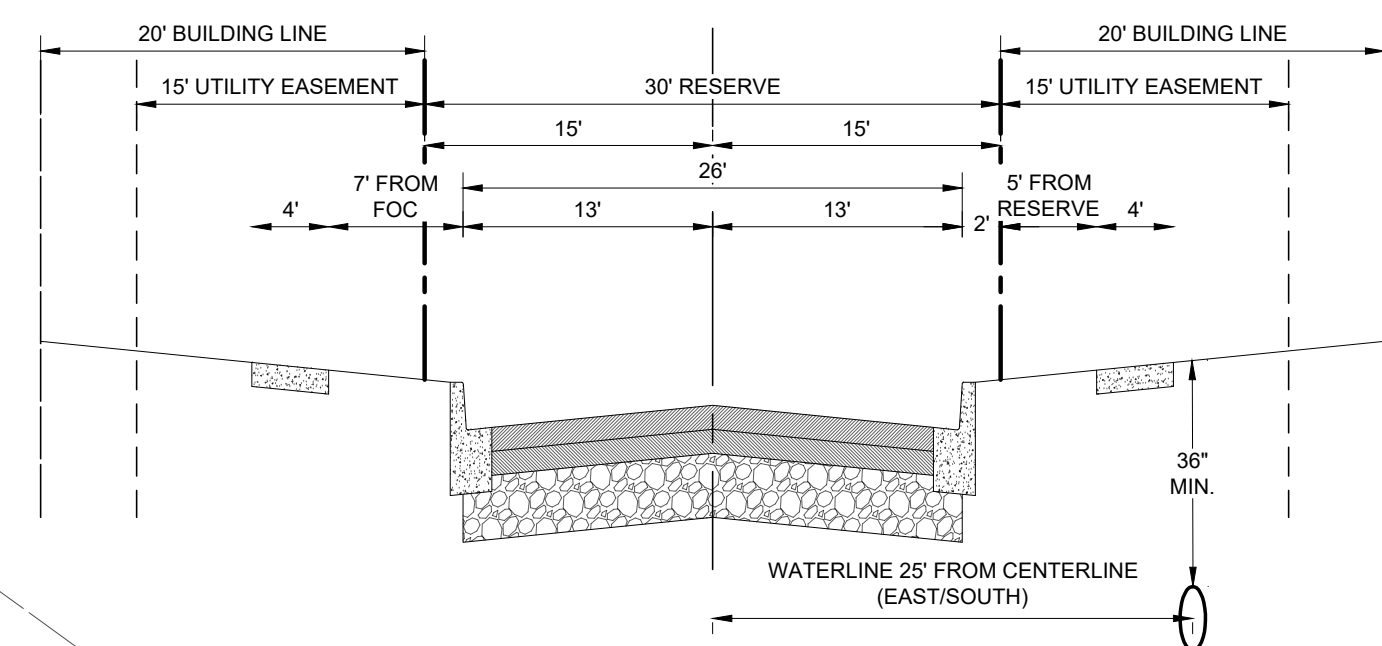
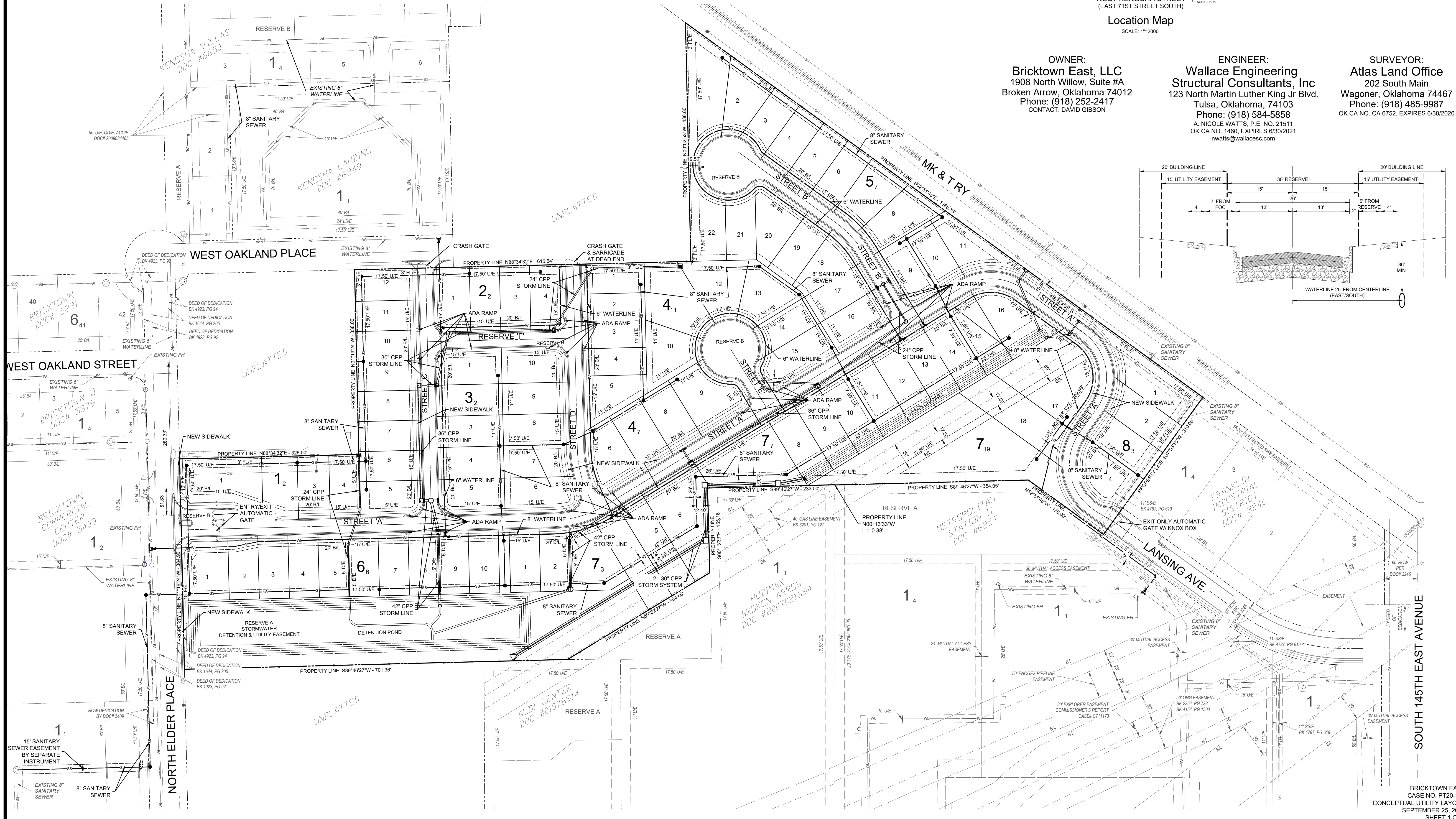
A TRACT OF LAND THAT IS PART OF THE SOUTHEAST QUARTER (SE/4) OF SECTION FOUR (4), TOWNSHIP EIGHTEEN (18) NORTH, RANGE FOURTEEN (14) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA



OWNER:
Bricktown East, LLC
1908 North Willow, Suite #A
Broken Arrow, Oklahoma 74012
Phone: (918) 252-2417
CONTACT: DAVID GIBSON

ENGINEER:
**Wallace Engineering
Structural Consultants, Inc**
123 North Martin Luther King Jr Blvd.
Tulsa, Oklahoma, 74103
Phone: (918) 584-5858
A. NICOLE WATTS, P.E. NO. 21511
OK CA NO. 1460, EXPIRES 6/30/2021
nwatts@wallacesc.com

SURVEYOR:
Atlas Land Office
202 South Main
Wagoner, Oklahoma 74467
Phone: (918) 485-9987
OK CA NO. CA 6752, EXPIRES 6/30/2020





City of Broken Arrow

Request for Action

File #: 20-1259, **Version:** 1

Broken Arrow Planning Commission
10-08-2020

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

Approval of PT20-114, Preliminary Plat, Presley Reserve, 40.20 acres, A-1 (Agricultural) to RS-3 (Single-Family Residential), south of Tucson Street (121st Street), one-half mile west of Aspen Avenue (145th East Avenue)

Background:

Applicant: Tanner Consulting, Erik Enyart
Owner: The Robert Lee & Oma Alice Jones Trust
Developer: The Robert Lee & Oma Alice Jones Trust
Engineer: Tanner Consulting
Location: South of Tucson Street (121st Street), one-half mile west of Aspen Avenue (145th East Avenue)
Size of Tract 40.20 acres
Number of Lots: 1 lot (130 proposed)
Present Zoning: A-1 (Agricultural) to RS-3 (Single-Family Residential) via BAZ-2063
Comp Plan: Level 2 (Urban Residential)

PT20-114, the preliminary plat for Presley Reserve proposes 130 lots on 40.20 acres. This property is located south of Tucson Street (121st Street), one-half mile west of Aspen Avenue (145th East Avenue). BAZ-2063, a request to change the zoning on the property from A-1 to RS-3 was recommended for approval by the Planning Commission on September 24, 2020 and will be considered by the City Council on October 20, 2020.

Access to this site is through one main access point onto Tucson Street. Connections to existing stub streets in abutting developments provide additional access and circulation which meet the Subdivision Regulations and Fire Code. One of the existing stub streets is located on the west side of the development in Riverstone Estates, another is proposed to a future development, Stone Horse V of Broken Arrow, and one is located on the east side of the development in Spring Creek III.

None of this property is shown to be located in the 100-year floodplain. Water and sanitary sewer service to this site are available from the City of Broken Arrow.

Attachments: Checklist
Preliminary Plat, Covenants and Conceptual Utilities Plan

Recommendation:

Staff recommends PT20-114, preliminary plat for Presley Reserve, be approved subject to the attached checklist and City Council approval of BAZ-2063.

Reviewed by: **Jill Ferenc**

Approved by: **Larry R. Curtis**

ALY

BROKEN ARROW PLANNING COMMISSION AND CITY COUNCIL SUBDIVISION PLAT REVIEW CHECKLIST

PLAT INFORMATION

NAME OF PRELIMINARY PLAT: Presley Reserve

CASE NUMBER: PT20-114

RELATED CASE NUMBERS: BAZ-2063

COUNTY: Tulsa

SECTION/TOWNSHIP/RANGE: Section 04/T-17-N/R-14-E

GENERAL LOCATION: South of Tucson, ½ mile west of Aspen

CURRENT ZONING: A-1 to RS-3 (BAZ-2063)

SANITARY SEWER BASIN: Haikey Creek (S-20434)

STORM WATER DRAINAGE BASIN: Aspen Creek

ENGINEER: Tanner Consulting, Erik Enyart

ENGINEER ADDRESS: 5323 S. Lewis Avenue
Tulsa, OK 74105

ENGINEER PHONE NUMBER: 918-745-9969

DEVELOPER: The Robert Lee & Oma Alice Jones Trust

DEVELOPER ADDRESS: 12214 S. 139th East Avenue
Broken Arrow, OK 74011

DEVELOPER PHONE NUMBER:

PRELIMINARY PLAT

APPLICATION MADE: 09 - 25 -2020

TOTAL ACREAGE: 40.20 acres

NUMBER OF LOTS: 130

TAC MEETING DATE: October 6, 2020

PLANNING COMMISSION MEETING DATE: October 8, 2020

COMMENTS:

1. _____ Show the detention determination number
2. _____ Place case number (PT20-114) in lower right corner of plat.
3. _____ Show the address (as assigned by the City of Broken Arrow) for each lot. Addresses shall be placed on the lot.
4. _____ The setback from Van Buren Ct. on Lot 26\, Block 7 needs to be increased to 20-feet. Per Section 4.1.B, Table 4.1-2 of the Zoning Ordinance, the offset in the front yard between the two lots shall not exceed 5-feet.
5. _____ Specify if the backyard utility easements are on each side of the rear property lines (Block 4).
6. _____ What is the 21.15' measurement in Reserve B referring to?
7. _____ Provide a written statement (email is acceptable) that all wedge shaped lots meet the minimum lot frontage requirement at the building setback line.
8. _____ Incorporate any easements or reserves that arise from engineering plan review comments of the conceptual utilities that relate to the plat. See the last page under the Conceptual Utility Engineering Review section for the Engineering Review Recommendations.

CONDITIONAL FINAL PLAT

NAME OF CONDITIONAL FINAL PLAT:

APPLICATION MADE:

TOTAL ACREAGE:

NUMBER OF LOTS:

TAC MEETING DATE:

PLANNING COMMISSION MEETING DATE:

CITY COUNCIL MEETING DATE:

COMMENTS:

9. _____
10. _____
11. _____
12. _____ The conditional final plat and the "no exceptions taken" engineering drawing must agree with respect to Limits of Access and No Access, easement both internal and external, reserve area, traffic control medians, street layouts, rights-

of-way, etc. Please provide a written statement (e-mail statement is acceptable) that the conditional final plat agrees with the "no exceptions taken" engineering plans.

13. _____ Finished floor elevations (FFE) shall be shown for each lot on the Final Plat.
14. _____ Show monuments on plat.
15. _____ Provide a closing statement that shows that the platted boundary meets the Survey Standards for Oklahoma, for accuracy and correctness.
16. _____

CONDITIONS TO BE MET PRIOR TO FINAL RELEASE OF PLAT

LETTER OF APPROVAL FROM UTILITY COMPANY SUBMITTED?

_____ NATURAL GAS COMPANY APPROVAL
_____ ELECTRIC COMPANY APPROVAL
_____ TELEPHONE COMPANY APPROVAL
_____ CABLE COMPANY APPROVAL

CERTIFICATE OF RECORDS SEARCH FROM OKLAHOMA CORPORATION COMMISSION SUBMITTED?

_____ OK CORPORATION COMMISSION CERTIFICATE OF RECORDS SEARCH
_____ OKLAHOMA CORPORATION COMMISSION, 405-521-2271

DEVELOPMENT SERVICES/ENGINEERING APPROVAL

_____ STORMWATER PLANS, ACCEPTED ON:
_____ PAVING PLANS, ACCEPTED ON:
_____ WATER PLANS, ACCEPTED ON:
_____ SANITARY SEWER PLANS, ACCEPTED ON:
_____ SEWAGE DISPOSAL PLANS, SENT TO DEPARTMENT OF ENVIRONMENTAL QUALITY ON:
_____ WATER PLANS SENT TO DEPARTMENT OF ENVIRONMENTAL QUALITY ON: _____
_____ IS A SIDEWALK PERFORMANCE BOND DUE? _____ HAVE THEY BEEN SUBMITTED? _____
_____ ARE PERFORMANCE BONDS OR ESCROW AGREEMENT DUE FOR WATER, STORM SEWERS, SANITARY SEWER AND PAVING? (CIRCLE APPLICABLE) _____ HAVE THEY BEEN SUBMITTED? _____
_____ PROJECT ENGINEER/DEVELOPMENT SERVICES REVIEW COMPLETE ON: _____

PLANNING DEPARTMENT APPROVAL

_____ ADDRESSES REVIEWED AND APPROVED?
_____ DETENTION DETERMINATION # ASSIGNED AND VERIFIED?
_____ PLANNING DEPARTMENT REVIEW COMPLETE ON:
_____ FINAL PLAT RECEIVED IN PLANNING DEPARTMENT AFTER UTILITY COMPANY SIGN OFF ON:
_____ FINAL PLAT SENT TO PROJECT ENGINEER FOR FINAL REVIEW ON:

FEES

_____ FINAL PLAT PROCESSING FEE (\$150 + (\$5 X _____ LOTS)	\$ _____
_____ WATER LINE (S) UNDER PAYBACK CONTRACT	\$ _____
_____ EXCESS SEWER CAPACITY FEE (\$700 X _____ ACRES (LESS ANY AREA IN 100 YEAR FLOODPLAIN ONLY OR AREA IN GOLF COURSE)	\$ _____
_____ ACCELERATION/DECELERATION LANES ESCROW	\$ _____
_____ WATER LINE CONNECTIONS, PAYABLE TO CITY OR OTHERS	\$ _____
_____ SEWER LINE CONNECTIONS, PAYABLE TO CITY OR OTHERS	\$ _____
_____ STREET IMPROVEMENT (WIDENING) ASSESSMENTS	\$ _____
_____ DRAINAGE SYSTEM IMPROVEMENTS PRO RATA COST	\$ _____
_____ REIMBURSEMENT TO CITY OR OTHERS FOR WATER LINE CON.	\$ _____
_____ REIMBURSEMENT TO CITY OR OTHERS FOR SEWER LINE CON.	\$ _____
_____ STREET SIGNS, LIGHTS, ETC. (\$150 X _____ SIGNS)	\$ _____
_____ SIDEWALK ESCROW	\$ _____
_____ STORM WATER FEE-IN-LIEU OF DETENTION (.40 X _____ (SF INCREASED IMPERVIOUS AREA) (less any area in Reserve Area of ½ acre or more)	\$ _____

TOTAL FEE(S)

\$ _____

FINAL PROCESSING OF PLAT

_____ FINAL PLAT SUBMITTED FOR MAYOR AND CITY CLERK SIGNATURE ON: _____

_____ FEES PAID ON: _____ IN THE AMOUNT OF: _____

_____ FINAL PLAT PICKED UP FOR RECORDATION ON: _____

_____ 2 COPIES OF FILED PLAT SUBMITTED TO PLANNING DEPARTMENT

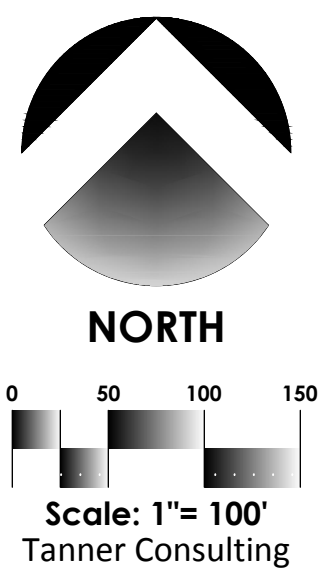
_____ PDF OF RECORDED PLAT SUBMITTED TO PLANNING DEPARTMENT

CONCEPTUAL UTILITIES ENGINEERING REVIEW

The Conceptual Utility Plans are not a complete set of improvement plans, the applicant is not expected to show how all the improvements are in compliance with all city regulations. As such, there may be additional review items when the final engineering plans are submitted. These conceptual utility plans' review items are intended for guidance toward preparation of the final engineering plans. The following items are not a requirement for approval of the Preliminary Plat or the Conditional Final Plat.

RECOMMENDATIONS FOR UTILITY REVISIONS PRIOR TO ENGINEERING PLAN SUBMITTALS

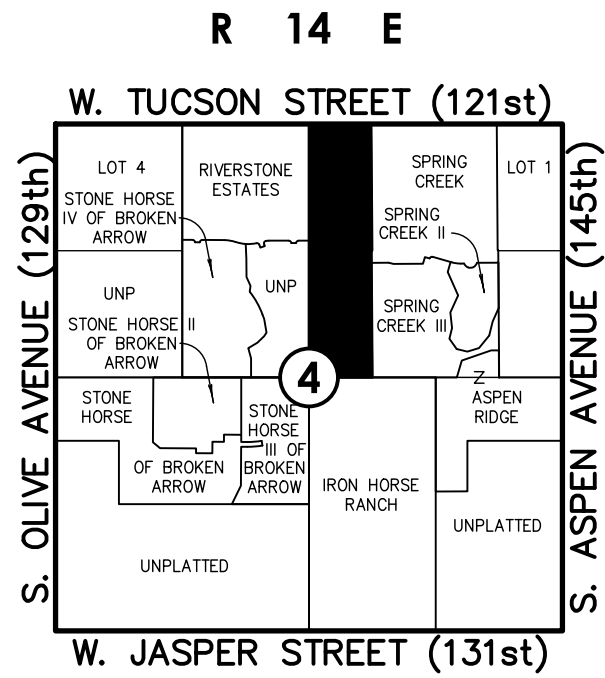
- E-1. The waterline through the development needs to be an 8-inch line. 8.2.3
- E-2. The waterlines into each adjacent development needs to be an 8-inch line. Match adjacent water.
- E-3. The fire hydrant spacing between Gardena and Fir Ave is greater than the 600 feet max. 8.4.8
- E-4. The fire hydrant spacing into each cul de sac is greater than the 300 feet max. 8.4.8
- E-5. On each cul de sac, install waterline valves on each branch line into the cul de sac and an in-line valve between the two branches. 8.4.9
- E-6. Check the grading to verify the runoff is intercepted before it crosses more than four adjacent lots. 10.6.4



Preliminary Plat

Presley Reserve

PART OF THE WEST HALF OF THE NORTHEAST QUARTER (W/2 NE/4) OF SECTION FOUR (4) TOWNSHIP SEVENTEEN (17) NORTH, RANGE FOURTEEN (14) EAST OF THE INDIAN MERIDIAN A SUBDIVISION WITHIN THE CITY OF BROKEN ARROW, TULSA COUNTY, STATE OF OKLAHOMA



Location Map
Scale: 1"= 200'

LEGEND

- B/L BUILDING LINE
- B/U BUILDING LINE & UTILITY EASEMENT
- BK PG BOOK & PAGE
- CB CHORD BEARING
- CL CHORD DISTANCE
- CL CENTERLINE
- A DELTA ANGLE
- DOC DOCUMENT
- ESMT EASEMENT
- GOV'T GOVERNMENT
- LNA LIMITS OF NO ACCESS
- ODE OVERLAND DRAINAGE EASEMENT
- R.A. RESTRICTED ACCESS (SEE NOTE 6)
- RES. RESERVE
- R/W RIGHT-OF-WAY
- U/E UTILITY EASEMENT
- 1234 ADDRESS ASSIGNED
- o FOUND MONUMENT
- SET MONUMENT (SEE NOTE 2)

SUBDIVISION CONTAINS:

ONE-HUNDRED THIRTY (130) LOTS
IN FOUR (4) BLOCKS
WITH THREE (3) RESERVE AREAS

GROSS SUBDIVISION AREA: 40.198 ACRES

OWNER:
The Robert Lee & Oma Alice Jones Trust
OMA ALICE JONES, TRUSTEE
C/O TANNER CONSULTING, LLC
5323 South Lewis Avenue
Tulsa, OK 74105
Phone: (918) 745-9929

SURVEYOR/ENGINEER:
Tanner Consulting, L.L.C.
DAN E. TANNER, P.L.S. NO. 1435
OK CA NO. 2661, EXPIRES 6/30/2021
EMAIL: DAN@TANNERBAITSHOP.COM
5323 South Lewis Avenue
Tulsa, Oklahoma 74105
Phone: (918) 745-9929

Notes:

- THIS PLAT MEETS THE OKLAHOMA MINIMUM STANDARDS FOR THE PRACTICE OF LAND SURVEYING AS ADOPTED BY THE OKLAHOMA STATE BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS.
- ALL PROPERTY CORNERS ARE SET 3/8" IRON REBAR WITH YELLOW CAP STAMPED "TANNER RLS 1435" UNLESS OTHERWISE NOTED.
- THE BEARINGS SHOWN HEREON ARE BASED UPON THE OKLAHOMA STATE PLANE COORDINATE SYSTEM, NORTH ZONE (3501), NORTH AMERICAN DATUM 1983 (NAD83); SAID BEARINGS ARE BASED LOCALLY UPON FIELD-OBSERVED TIES TO THE FOLLOWING MONUMENTS:
- ADDRESSES SHOWN ON THIS PLAT WERE PROVIDED BY THE CITY OF BROKEN ARROW AND ARE ACCURATE AT THE TIME THE PLAT WAS FILED. ADDRESSES ARE SUBJECT TO CHANGE AND SHOULD NEVER BE RELIED ON IN PLACE OF THE LEGAL DESCRIPTION.
- ACCESS AT THE TIME OF PLAT WAS PROVIDED BY WEST TUCSON STREET BY VIRTUE OF RIGHT-OF-WAY DEDICATED BY THIS PLAT.
- ACCESS IS RESTRICTED AND ADDITIONAL SETBACK AND OTHER CITY OF BROKEN ARROW ZONING ORDINANCE RESTRICTIONS APPLY TO LOTS WITH LOT LINES DESIGNATED "RESTRICTED ACCESS" OR "R.A." THIS NOTE IS IN REFERENCE AND SUBORDINATE TO A SIMILAR PROVISION IN THE RESTRICTIVE COVENANTS.

Curve Table

CURVE	LENGTH(L)	RADIUS(R)	DELTA(A)	CHORDBRG(CB)	CHORDDIS(CD)
1	39.27'	25.00'	90°00'00"	N43°19'20"E	35.36'
2	39.27'	25.00'	90°00'00"	N46°40'40"W	35.36'
3	21.03'	25.00'	48°11'23"	N67°34'59"W	20.41'
4	241.19'	50.00'	276°22'46"	N1°40'40"W	66.67'
5	21.03'	25.00'	48°11'23"	N64°13'38"E	20.41'
6	16.09'	25.00'	36°52'12"	N20°06'46"W	15.81'
7	142.89'	50.00'	163°44'23"	N43°19'20"E	98.99'
8	16.09'	25.00'	36°52'12"	N73°14'34"W	15.81'
9	16.09'	25.00'	36°52'12"	N16°45'26"E	15.81'
10	142.89'	50.00'	163°44'23"	N46°40'40"W	98.99'
11	16.09'	25.00'	36°52'12"	N69°53'14"E	15.81'
12	38.33'	25.00'	87°50'55"	N47°45'13"W	34.69'
13	21.03'	25.00'	48°11'23"	N25°46'22"W	20.41'
14	241.19'	50.00'	276°22'46"	N88°19'20"E	66.67'
15	21.03'	25.00'	48°11'23"	N22°25'01"E	20.41'
16	153.74'	50.00'	176°10'40"	N86°24'39"E	99.94'
17	37.60'	25.00'	86°10'39"	N48°35'21"W	34.16'
18	117.81'	75.00'	90°00'00"	N43°19'20"E	106.07'

APPROVED _____ by the City
Council of the City of Broken Arrow,
Oklahoma.

Mayor _____

Attest: City Clerk _____

Presley Reserve
CASE NO. PTO0-000
SHEET 1 OF 3

DATE OF PREPARATION: September 21, 2020

Presley Reserve

PART OF THE WEST HALF OF THE NORTHEAST QUARTER (W/2 NE/4) OF SECTION FOUR (4)
TOWNSHIP SEVENTEEN (17) NORTH, RANGE FOURTEEN (14) EAST OF THE INDIAN MERIDIAN
A SUBDIVISION WITHIN THE CITY OF BROKEN ARROW, TULSA COUNTY, STATE OF OKLAHOMA

DEED OF DEDICATION AND RESTRICTIVE COVENANTS

KNOW ALL MEN BY THESE PRESENTS:

THAT 139 BA, LLC, AN OKLAHOMA LIMITED LIABILITY COMPANY, HEREINAFTER REFERRED TO AS THE "OWNER/DEVELOPER", IS THE OWNER/DEVELOPER OF THE FOLLOWING DESCRIBED REAL ESTATE SITUATED IN THE CITY OF BROKEN ARROW, TULSA COUNTY, STATE OF OKLAHOMA:

A TRACT OF LAND THAT IS A PART OF GOVERNMENT LOT 2 AND THE WEST HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER (W/2 SW/4 NE/4) OF SECTION FOUR (4), TOWNSHIP SEVENTEEN (17) NORTH, RANGE FOURTEEN (14) EAST OF THE INDIAN MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 4 THENCE SOUTH 88°40'57" WEST AND ALONG THE NORTH LINE OF SECTION 4 FOR A DISTANCE OF 1978.01 FEET TO THE POINT OF BEGINNING:

THENCE SOUTH 1°39'47" EAST AND ALONG THE WEST LINE OF "SPRING CREEK OF BROKEN ARROW" A SUBDIVISION WITHIN THE CITY OF BROKEN ARROW, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF (PLAT NO. 6500), FOR A DISTANCE OF 1310.43 FEET TO A POINT ON THE NORTH LINE OF SAID W/2 SW/4 NW/4; THENCE SOUTH 88°47'23" WEST AND ALONG THE NORTH LINE FOR A DISTANCE OF 7.02 FEET, TO A POINT ON THE WEST LINE OF "SPRING CREEK OF BROKEN ARROW"; THENCE SOUTH 1°39'47" EAST, AND ALONG SAID WEST LINE, ALSO ALONG WEST LINE OF "SPRING CREEK OF BROKEN ARROW III" A SUBDIVISION WITHIN THE CITY OF BROKEN ARROW, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF (PLAT NO. 6680), FOR A DISTANCE OF 1324.01 FEET, TO A POINT BEING THE NORTHEAST CORNER OF "IRON HORSE RANCH", A SUBDIVISION WITH THE CITY OF BROKEN ARROW, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF (PLAT NO 6262); THENCE SOUTH 88°40'37" WEST AND ALONG THE NORTH LINE OF "IRON HORSE RANCH" FOR A DISTANCE OF 660.84 FEET, TO A POINT BEING THE NORTHWEST CORNER OF "IRON HORSE RANCH"; THENCE NORTH 1°40'40" WEST AND ALONG THE EAST LINE OF "STONEHORSE V" A FUTURE SUBDIVISION WITHIN THE CITY OF BROKEN ARROW, TULSA COUNTY, STATE OF OKLAHOMA, ALSO ALONG THE EAST LINE OF "RIVERSTONE ESTATES", A SUBDIVISION WITHIN THE CITY OF BROKEN ARROW, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF (PLAT NO. 6726) FOR A DISTANCE OF 2634.50 FEET TO A POINT BEING THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE/4) OF SECTION 4; THENCE NORTH 88°40'57" EAST AND ALONG THE NORTH LINE OF SAID NE/4 FOR A DISTANCE OF 668.54 FEET TO THE POINT OF BEGINNING;

SAID TRACT CONTAINING 1,751,021 SQUARE FEET, OR 40.198 ACRES.

THE BEARINGS SHOWN HEREON ARE BASED UPON THE OKLAHOMA STATE PLANE COORDINATE SYSTEM, NORTH ZONE (3501), NORTH AMERICAN DATUM 1983 (NAD83); SAID BEARINGS ARE BASED LOCALLY UPON FIELD-OBSERVED TIES TO THE FOLLOWING MONUMENTS:

- (1) FOUND ... SECTION 4;
(2) FOUND ... SECTION 4;

THE BEARING BETWEEN SAID MONUMENTS BEING XXXXX XX°XX'XX" XXXX.

THE OWNER/DEVELOPER HAS CAUSED THE SAME TO BE SURVEYED, STAKED, PLATTED, AND SUBDIVIDED INTO ONE HUNDRED THIRTY (130) LOTS, FOUR (4) BLOCKS, THREE (3) RESERVE AREAS, AND STREETS AS SHOWN BY THE ACCOMPANYING PLAT AND SURVEY THEREOF, AND WHICH PLAT IS MADE A PART HEREOF; AND THE OWNER/DEVELOPER HAS GIVEN TO SAID PLAT THE NAME OF "ROSE ROCK RESERVE", A SUBDIVISION WITHIN THE CITY OF BROKEN ARROW, TULSA COUNTY, OKLAHOMA, (WHEREVER THE WORD "SUBDIVISION" APPEARS HEREIN THE SAME SHALL CONCLUSIVELY BE DEEMED TO MEAN "ROSE ROCK RESERVE" UNLESS THE CONTEXT CLEARLY DICTATES OTHERWISE. LIKEWISE, WHEREVER THE WORD "CITY" APPEARS HEREIN THE SAME SHALL CONCLUSIVELY BE DEEMED TO MEAN THE CITY OF BROKEN ARROW, TULSA COUNTY, OKLAHOMA, UNLESS THE CONTEXT CLEARLY DICTATES OTHERWISE). NOW, THEREFORE, THE OWNER/DEVELOPER, FOR THE PURPOSE OF PROVIDING FOR THE ORDERLY DEVELOPMENT OF THE SUBDIVISION, AND FOR THE PURPOSE OF INSURING ADEQUATE RESTRICTIONS FOR THE MUTUAL BENEFIT OF THE OWNER/DEVELOPER, ITS SUCCESSORS, GRANTEEES, AND ASSIGNS, AND THE BENEFICIARIES OF THE COVENANTS SET FORTH BELOW, DOES HEREBY IMPOSE THE FOLLOWING RESTRICTIONS AND COVENANTS, WHICH SHALL BE COVENANTS RUNNING WITH THE LAND AND WHICH SHALL BE ENFORCEABLE BY THE OWNER/DEVELOPER, ALL LOT OWNERS WITHIN THE SUBDIVISION, AND BY THE OTHER BENEFICIARIES OF THE COVENANTS AS SET FORTH BELOW.

SECTION I. STREETS, EASEMENTS, AND UTILITIES

A. PUBLIC STREETS AND UTILITY EASEMENTS:

THE OWNER/DEVELOPER DOES HEREBY DEDICATE FOR PUBLIC USE THE STREET RIGHTS-OF-WAY DEPICTED ON THE ACCOMPANYING PLAT AND DOES FURTHER DEDICATE FOR PUBLIC USE THE UTILITY EASEMENTS, AS DEPICTED ON THE ACCOMPANYING PLAT AS "U/E" OR "UTILITY EASEMENT," FOR THE SEVERAL PURPOSES OF CONSTRUCTING, OPERATING, MAINTAINING, REPAIRING, REPLACING, AND/OR REMOVING ANY AND ALL PUBLIC UTILITIES, INCLUDING STORM SEWERS, SANITARY SEWERS, COMMUNICATION LINES, ELECTRIC POWER LINES AND TRANSFORMERS, GAS LINES, AND WATERLINES, 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, REMOVE, AND REPLACE WATERLINES, STORM SEWER LINES, AND SANITARY SEWER LINES, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS FOR SUCH CONSTRUCTION, MAINTENANCE, OPERATION, LAYING, REMOVING, AND REPLACING OVER, ACROSS, AND ALONG ALL OF THE UTILITY EASEMENTS DEPICTED ON THE PLAT, FOR THE PURPOSE OF FURNISHING WATER, STORM SEWER, AND SANITARY SEWER SERVICES TO THE AREA INCLUDED IN THE PLAT AND TO AREAS OUTSIDE OF THE PLAT.

THE OWNER/DEVELOPER HEREBY IMPOSES A RESTRICTIVE COVENANT, WHICH COVENANT SHALL BE BINDING ON EACH LOT AND RESERVE AREA OWNER 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, OR LANDSCAPING THAT DO NOT CONSTITUTE AN OBSTRUCTION AS AFORESAID WITHIN SUCH EASEMENTS.

B. UNDERGROUND SERVICE:

1. OVERHEAD LINES FOR THE SUPPLY OF ELECTRIC AND COMMUNICATION SERVICES MAY BE LOCATED WITHIN THE RIGHT-OF-WAY OF WEST TUCSON STREET AS DEDICATED BY THIS PLAT AND WITHIN THE PERIMETER UTILITY EASEMENTS OF THE SUBDIVISION. STREET LIGHT POLES OR STANDARDS SHALL BE SERVED BY UNDERGROUND CABLE THROUGHOUT THE SUBDIVISION AND, EXCEPT AS PROVIDED IN THE IMMEDIATELY-PRECEDING SENTENCE, ALL SUPPLY LINES INCLUDING ELECTRIC, COMMUNICATION, AND GAS LINES SHALL BE LOCATED UNDERGROUND IN THE EASEMENT WAYS DEDICATED FOR GENERAL UTILITY SERVICES AND IN THE STREET RIGHTS-OF-WAY AS DEPICTED ON THE ACCOMPANYING PLAT. SERVICE PEDESTALS AND TRANSFORMERS, AS SOURCES OF SUPPLY AT SECONDARY VOLTAGES, MAY ALSO BE LOCATED IN THE UTILITY EASEMENTS.

2. UNDERGROUND SERVICE CABLES AND GAS SERVICE LINES TO ALL STRUCTURES WHICH MAY BE LOCATED WITHIN 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 THE LOT. PROVIDED THAT, UPON THE INSTALLATION OF A SERVICE CABLE OR GAS SERVICE LINE TO A PARTICULAR STRUCTURE, THE SUPPLIER OF SERVICE SHALL THEREAFTER BE DEEMED TO HAVE A DEFINITIVE, PERMANENT, EFFECTIVE, AND NON-EXCLUSIVE RIGHT-OF-WAY EASEMENT ON THE LOT, COVERING A FIVE (5) FOOT STRIP EXTENDING TWO AND ONE-HALF (2.5) FEET ON EACH SIDE OF THE SERVICE CABLE OR LINE EXTENDING FROM THE GAS MAIN, SERVICE PEDESTAL, OR TRANSFORMER TO THE SERVICE ENTRANCE ON THE STRUCTURE.

3. THE SUPPLIERS OF ELECTRIC, COMMUNICATION, AND GAS SERVICES, THROUGH THEIR RESPECTIVE PROPER AGENTS AND EMPLOYEES, SHALL AT ALL TIMES HAVE THE RIGHT OF ACCESS TO ALL UTILITY EASEMENTS SHOWN ON THE PLAT OR OTHERWISE PROVIDED FOR IN THIS DEED OF DEDICATION FOR THE PURPOSE OF INSTALLING, MAINTAINING, REMOVING, OR REPLACING ANY PORTION OF THE UNDERGROUND ELECTRIC, COMMUNICATION, OR GAS FACILITIES INSTALLED BY THE SUPPLIER OF THE UTILITY SERVICE.

4. EACH LOT AND RESERVE AREA OWNER SHALL BE RESPONSIBLE FOR THE PROTECTION OF THE UNDERGROUND SERVICE FACILITIES LOCATED ON THE OWNER'S LOT OR RESERVE AREA AND SHALL PREVENT THE ALTERATION OF GRADE OR ANY CONSTRUCTION ACTIVITY WHICH WOULD INTERFERE WITH THE ELECTRIC, COMMUNICATION, OR GAS FACILITIES. EACH SUPPLIER OF SERVICE SHALL BE RESPONSIBLE FOR ORDINARY MAINTENANCE OF THEIR UTILITY FACILITIES, BUT THE LOT OR RESERVE AREA OWNER SHALL PAY FOR DAMAGE OR RELOCATION OF SUCH FACILITIES CAUSED OR NECESSITATED BY ACTS OF THE LOT OR RESERVE AREA OWNER OR SAID OWNER'S AGENTS OR CONTRACTORS. SAID RESTRICTIONS ON ALTERATIONS OF GRADE AND LIMITATIONS ON CONSTRUCTION ACTIVITIES SHALL BE LIMITED TO UTILITY EASEMENTS AND DO NOT APPLY TO AREAS OUTSIDE OF THE UTILITY EASEMENTS DESIGNATED ON THE PLAT.

5. THE FOREGOING COVENANTS SET FORTH IN THIS SUBSECTION B. CONCERNING ELECTRIC, COMMUNICATION, AND GAS SERVICES SHALL BE ENFORCEABLE BY EACH SUPPLIER OF THE ELECTRIC, COMMUNICATION, AND GAS SERVICE AND EACH LOT OR RESERVE AREA OWNER AGREES TO BE BOUND HEREBY.

C. WATER, SANITARY SEWER, AND STORM SEWER SERVICES:

1. EACH LOT AND RESERVE AREA OWNER SHALL BE RESPONSIBLE FOR THE PROTECTION OF THE PUBLIC WATER MAINS, SANITARY SEWER MAINS, AND STORM SEWER FACILITIES LOCATED ON SUCH OWNER'S LOT OR RESERVE AREA.

2. WITHIN THE UTILITY EASEMENT AREAS DEPICTED ON THE ACCOMPANYING PLAT, THE ALTERATION OF GRADE IN EXCESS OF THREE (3) FEET FROM THE CONTOURS EXISTING UPON THE COMPLETION OF THE INSTALLATION OF A PUBLIC WATER MAIN, SANITARY SEWER MAIN, OR STORM SEWER, OR ANY CONSTRUCTION ACTIVITY WHICH WOULD, IN THE JUDGMENT OF THE CITY OF BROKEN ARROW, INTERFERE WITH PUBLIC WATER MAINS, SANITARY SEWER MAINS, OR STORM SEWERS, SHALL BE PROHIBITED.

3. THE CITY OF BROKEN ARROW, OKLAHOMA, OR ITS SUCCESSORS, SHALL BE RESPONSIBLE FOR THE ORDINARY MAINTENANCE OF PUBLIC WATER MAINS, SANITARY SEWER MAINS, AND STORM SEWERS, BUT THE LOT OR RESERVE AREA OWNER SHALL PAY FOR DAMAGE OR RELOCATION OF SUCH FACILITIES CAUSED OR NECESSITATED BY ACTS OF THE LOT OR RESERVE AREA OWNER OR SUCH OWNER'S AGENTS OR CONTRACTORS.

4. THE CITY OF BROKEN ARROW, OKLAHOMA, OR ITS SUCCESSORS, SHALL AT ALL TIMES HAVE RIGHT OF ACCESS TO ALL UTILITY EASEMENTS 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, SANITARY SEWER, OR STORM SEWER FACILITIES.

5. THE FOREGOING COVENANTS SET FORTH IN THIS SUBSECTION C. SHALL BE ENFORCEABLE BY THE CITY OF BROKEN ARROW, OKLAHOMA, OR ITS SUCCESSORS, AND THE OWNER/DEVELOPER AND OWNERS OF EACH LOT AND RESERVE AREA AGREE TO BE BOUND HEREBY.

D. GAS SERVICE:

1. EACH LOT AND RESERVE AREA OWNER SHALL BE RESPONSIBLE FOR THE PROTECTION OF THE UNDERGROUND GAS FACILITIES LOCATED WITHIN SAID OWNER'S LOT OR RESERVE AREA AND SHALL PREVENT THE ALTERATION OF GRADE OR ANY OTHER CONSTRUCTION ACTIVITY WHICH WOULD INTERFERE WITH THE GAS SERVICE.

2. THE SUPPLIER OF GAS SERVICE SHALL BE RESPONSIBLE FOR THE ORDINARY MAINTENANCE OF GAS MAINS AND OTHER SERVICE FACILITIES BUT THE LOT OR RESERVE AREA OWNER SHALL PAY FOR DAMAGE OR RELOCATION OF SUCH MAINS OR FACILITIES CAUSED OR NECESSITATED BY ACTS OF THE LOT OR RESERVE AREA OWNER OR SUCH OWNER'S AGENTS OR CONTRACTORS.

3. THE SUPPLIER OF GAS SERVICE, THROUGH ITS AGENTS AND EMPLOYEES, SHALL AT ALL TIMES HAVE THE RIGHT OF ACCESS TO ALL UTILITY EASEMENTS DEPICTED ON THE ACCOMPANYING PLAT, OR AS OTHERWISE PROVIDED FOR IN THIS DEED OF DEDICATION, FOR THE PURPOSE OF INSTALLING, MAINTAINING, REMOVING, REPAIRING, OR REPLACING ANY PORTION OF THE FACILITIES INSTALLED BY THE SUPPLIER OF GAS SERVICE.

4. THE FOREGOING COVENANTS SET FORTH IN THIS SUBSECTION D. SHALL BE ENFORCEABLE BY THE SUPPLIER OF GAS SERVICE, OR ITS SUCCESSORS, AND EACH LOT AND RESERVE AREA OWNER AGREES TO BE BOUND HEREBY.

E. SURFACE DRAINAGE:

EACH LOT AND RESERVE AREA SHALL RECEIVE AND DRAIN, IN AN UNOBSTRUCTED MANNER, THE STORM AND SURFACE WATERS FROM LOTS, RESERVE AREAS, AND DRAINAGE AREAS OF HIGHER ELEVATION AND FROM PUBLIC STREETS AND EASEMENTS. NO LOT OR RESERVE AREA OWNER SHALL CONSTRUCT OR PERMIT TO BE CONSTRUCTED ANY FENCING OR OTHER OBSTRUCTIONS WHICH WOULD IMPAIR THE DRAINAGE OF STORM OR SURFACE WATERS OVER AND ACROSS SUCH OWNER'S LOT OR RESERVE AREA. THE FOREGOING COVENANTS SET FORTH IN THIS SUBSECTION E. SHALL BE ENFORCEABLE BY ANY AFFECTED LOT OR RESERVE AREA OWNER AND BY THE CITY OF BROKEN ARROW, OKLAHOMA. NO LOT OR RESERVE AREA OWNER SHALL ALLOW OR CONTRIBUTE TO THE DEGRADATION OF GROUND OR SURFACE WATER ON OR ACROSS SUCH OWNER'S LOT OR RESERVE AREA IN VIOLATION OF ENVIRONMENTAL REGULATIONS OF THE UNITED STATES, THE STATE OF OKLAHOMA, OR THE CITY OF BROKEN ARROW.

F. PAVING AND LANDSCAPING WITHIN EASEMENTS:

THE OWNER OF THE LOT OR RESERVE AREA AFFECTED SHALL BE RESPONSIBLE FOR THE REPAIR OF DAMAGE TO LANDSCAPING OR PAVING OCCASIONED BY INSTALLATION OR NECESSARY MAINTENANCE OF UNDERGROUND WATER, SANITARY SEWER, STORM SEWER, NATURAL GAS, COMMUNICATION, OR ELECTRIC FACILITIES WITHIN THE UTILITY EASEMENT AREAS DEPICTED UPON THE ACCOMPANYING PLAT, PROVIDED, HOWEVER, THE CITY OF BROKEN ARROW, OKLAHOMA, OR THE SUPPLIER OF THE UTILITY SERVICE, SHALL USE REASONABLE CARE IN THE PERFORMANCE OF SUCH ACTIVITIES.

G. OTHER USES:

ALL LOT AND RESERVE AREA OWNERS HAVE THE RIGHT TO USE THE EASEMENT AREAS SITUATED WITHIN SUCH OWNER'S LOT OR RESERVE AREA IN ANY MANNER THAT WILL NOT PREVENT OR INTERFERE WITH THE EXERCISE BY THE CITY OF BROKEN ARROW OR THE PROVIDER OF UTILITY SERVICE OF THE EASEMENT RIGHTS GRANTED UNDER THIS DEDICATION.

H. ACCESS RESTRICTIONS:

1. THE UNDERSIGNED OWNER/DEVELOPER HEREBY RELINQUISHES RIGHTS OF VEHICULAR INGRESS OR EGRESS FROM ANY PORTION OF THE PROPERTY ADJACENT TO WEST TUCSON STREET SOUTH WITHIN THE BOUNDS DESIGNATED AS "LIMITS OF NO ACCESS" (L.N.A.) ON THE ACCOMPANYING 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.

2. ACCESS IS RESTRICTED AND ADDITIONAL SETBACK AND OTHER CITY OF BROKEN ARROW ZONING ORDINANCE RESTRICTIONS APPLY TO LOTS WITH LOT LINES DESIGNATED "RESTRICTED ACCESS" OR "R.A."

I. SIDEWALKS:

1. INTERIOR SIDEWALKS SHALL BE CONSTRUCTED BY EACH PROPERTY OWNER IN COMPLIANCE WITH THE ENGINEERING DESIGN STANDARDS OF THE CITY OF BROKEN ARROW.

2. SIDEWALKS WILL BE CONSTRUCTED BY THE OWNER/DEVELOPER ALONG ALL STREETS ADJACENT TO ALL RESERVE AREAS.

J. OVERLAND DRAINAGE EASEMENTS:

1. FOR THE COMMON USE AND BENEFIT OF THE OWNERS OF LOTS WITHIN THE SUBDIVISION, AND FOR THE BENEFIT OF THE CITY OF BROKEN ARROW, OKLAHOMA, THE OWNER/DEVELOPER HEREBY ESTABLISHES AND GRANTS PERPETUAL OVERLAND DRAINAGE EASEMENTS ON, OVER, AND ACROSS THOSE AREAS DESIGNATED ON THE ACCOMPANYING PLAT AS "OVERLAND DRAINAGE EASEMENT" OR "ODE" FOR THE PURPOSES OF PERMITTING THE FLOW, CONVEYANCE, AND DISCHARGE OF STORM WATER RUNOFF FROM THE VARIOUS LOTS, RESERVE AREAS, AND STREETS WITHIN THE SUBDIVISION, AND FROM PROPERTIES OUTSIDE THE SUBDIVISION.

2. DRAINAGE FACILITIES CONSTRUCTED WITHIN THE OVERLAND DRAINAGE EASEMENTS SHALL BE IN ACCORDANCE WITH ADOPTED STANDARDS OF THE CITY OF BROKEN ARROW, AND PLANS AND SPECIFICATIONS APPROVED BY THE CITY OF BROKEN ARROW ENGINEERING DEPARTMENT.

3. NO FENCE, WALL, BUILDING, OR OTHER OBSTRUCTION MAY BE PLACED OR MAINTAINED IN THE OVERLAND DRAINAGE EASEMENT AREAS UNLESS APPROVED BY THE CITY OF BROKEN ARROW ENGINEERING DEPARTMENT, NOR SHALL THERE BE ANY ALTERATION OF THE GRADES OR CONTOURS IN THE OVERLAND DRAINAGE EASEMENT AREAS UNLESS APPROVED BY THE CITY OF BROKEN ARROW ENGINEERING DEPARTMENT. PROVIDED, HOWEVER, THAT WHERE COINCIDENT WITH UTILITY EASEMENTS, CUSTOMARY ABOVE-GROUND UTILITY APPURTENANCES SHALL BE DEEMED NON-OBSTRUCTING AND SHALL BE PERMITTED.

4. THE OVERLAND DRAINAGE EASEMENT AREAS AND FACILITIES THEREIN LOCATED SHALL BE MAINTAINED BY THE OWNER OF THE LOT OR RESERVE AREA CONTAINING THE EASEMENT, AND THE MAINTENANCE SHALL BE PERFORMED TO THE EXTENT NECESSARY TO ACHIEVE THE INTENDED DRAINAGE FUNCTIONS, INCLUDING REPAIR OF APPURTENANCES AND REMOVAL OF OBSTRUCTIONS AND SILTATION.

5. IN THE EVENT THE OWNER OF ANY LOT OR RESERVE AREA SUBJECT TO AN OVERLAND DRAINAGE EASEMENT SHOULD FAIL TO PROPERLY MAINTAIN THE EASEMENT AREAS AS ABOVE PROVIDED, THE CITY OF BROKEN ARROW, OKLAHOMA, OR ITS DESIGNATED CONTRACTOR, MAY ENTER THE OVERLAND DRAINAGE EASEMENT AREAS AND PERFORM SUCH MAINTENANCE, AND THE COST THEREOF SHALL BE PAID BY THE LOT OR RESERVE AREA OWNER. IN THE EVENT SUCH OWNER FAILS TO PAY THE COST OF SAID MAINTENANCE, AFTER COMPLETION OF THE MAINTENANCE AND RECEIPT OF A STATEMENT OF COSTS, THE CITY OF BROKEN ARROW, OKLAHOMA, MAY FILE OF RECORD A COPY OF THE STATEMENT OF COSTS, AND THEREAFTER THE COSTS SHALL BE A LIEN AGAINST THE LOT OR RESERVE AREA, WHICH LIEN MAY BE FORECLOSED BY THE CITY OF BROKEN ARROW, OKLAHOMA.

Presley Reserve

PART OF THE WEST HALF OF THE NORTHEAST QUARTER (W/2 NE/4) OF SECTION FOUR (4)
TOWNSHIP SEVENTEEN (17) NORTH, RANGE FOURTEEN (14) EAST OF THE INDIAN MERIDIAN
A SUBDIVISION WITHIN THE CITY OF BROKEN ARROW, TULSA COUNTY, STATE OF OKLAHOMA

DEED OF DEDICATION AND RESTRICTIVE COVENANTS (CONTINUED)

SECTION II. RESERVE AREAS

A. ALL RESERVE AREAS:

1. ALL RESERVE AREAS ARE HEREBY ESTABLISHED FOR THE COMMON USE AND BENEFIT OF THE OWNERS OF LOTS WITHIN THE SUBDIVISION AND ARE RESERVED FOR SUBSEQUENT CONVEYANCE TO THE HOMEOWNERS' ASSOCIATION DEFINED HEREINAFTER IN SECTION III. (THE "ASSOCIATION").

2. ALL COSTS AND EXPENSES ASSOCIATED WITH ALL RESERVE AREAS, INCLUDING MAINTENANCE OF VARIOUS IMPROVEMENTS AND RECREATIONAL FACILITIES, SHALL BE THE RESPONSIBILITY OF THE OWNER THEREOF, WHICH OWNER SHALL BE THE HOMEOWNERS' ASSOCIATION UPON CONVEYANCE OF SAME BY OWNER/DEVELOPER TO THE ASSOCIATION. SEE SECTION III. FOR ADDITIONAL DETAILS AND REQUIREMENTS.

3. THE CITY OF BROKEN ARROW, OKLAHOMA, SHALL NOT BE LIABLE FOR ANY DAMAGE OR REMOVAL OF ANY LANDSCAPING OR IRRIGATION SYSTEMS IN ANY RESERVE AREA.

4. THE HOMEOWNERS' ASSOCIATION SHALL BE RESPONSIBLE FOR MAINTENANCE OF ALL RETAINING WALLS AND NEIGHBORHOOD PERIMETER WALLS AND/OR FENCES. ANY SCREENING FENCES OR WALLS WITHIN THE FENCE EASEMENTS, ADJACENT TO OR INTEGRATED WITH A RETAINING WALL, SHALL BE SUBJECT TO THE REVIEW AND APPROVAL OF THE ENGINEERING DEPARTMENT OF THE CITY OF BROKEN ARROW, OKLAHOMA.

5. IN THE EVENT THE RESERVE AREA OWNER FAILS TO PAY THE COST OF SAID MAINTENANCE, AFTER COMPLETION OF THE MAINTENANCE BY THE CITY OF BROKEN ARROW, OKLAHOMA, OR ITS DESIGNATED CONTRACTOR, AND PROVISION OF A STATEMENT OF COSTS FROM THE CITY TO THE RESERVE AREA OWNER, THE CITY OF BROKEN ARROW, OKLAHOMA, MAY FILE OF RECORD A COPY OF THE STATEMENT OF COSTS, AND THEREAFTER THE COSTS SHALL BE A LIEN AGAINST SUCH RESERVE AREA, WHICH LIEN MAY BE FORECLOSED BY THE CITY OF BROKEN ARROW, OKLAHOMA.

6. EACH LOT OWNER OR RESIDENT AND/OR MEMBER OF THE HOMEOWNERS' ASSOCIATION SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER/DEVELOPER AND THE CITY OF BROKEN ARROW, AND THEIR RESPECTIVE AGENTS AND REPRESENTATIVES, FROM ALL CLAIMS, DEMANDS, LIABILITIES, OR DAMAGES ARISING IN CONNECTION WITH THE OWNERSHIP OR USE OF THE FACILITIES AND IMPROVEMENTS CONSTRUCTED OR SITUATED WITHIN THE RESERVE AREAS AND FURTHER AGREES THAT NEITHER THE OWNER/DEVELOPER NOR CITY OF BROKEN ARROW SHALL BE LIABLE TO ANY LOT OR RESERVE AREA OWNER OR RESIDENT AND/OR MEMBER OF THE ASSOCIATION OR ANY GUEST, VISITOR, OR INVITEE THEREOF FOR ANY DAMAGE TO PERSON OR PROPERTY CAUSED BY ACTION, OMISSION, OR NEGLIGENCE OF A LOT OR RESERVE AREA OWNER OR RESIDENT AND/OR MEMBER OF THE ASSOCIATION OR ANY GUEST, VISITOR, OR INVITEE THEREOF.

B. RESERVE AREAS A AND B:

THESE RESERVE AREAS ARE DESIGNATED TO BE USED FOR OPEN SPACE INCLUDING BUT NOT LIMITED TO ENTRY FEATURES, SIDEWALKS, LANDSCAPING, IRRIGATION, LIGHTING, SUBDIVISION IDENTIFICATION SIGNAGE, NEIGHBORHOOD WALLS OR FENCES, AND OTHER USES AS MAY BE PERMITTED BY THE CITY OF BROKEN ARROW, OKLAHOMA.

C. RESERVE AREA C:

RESERVE C IS DESIGNATED TO BE USED FOR OVERLAND AND UNDERGROUND DRAINAGE, NEIGHBORHOOD AMENITIES, OPEN SPACE, SIDEWALKS, LANDSCAPING, IRRIGATION, LIGHTING, SIGNAGE, RETAINING WALLS, AND OTHER USES AS MAY BE PERMITTED BY THE CITY OF BROKEN ARROW, OKLAHOMA.

SECTION III. HOMEOWNERS' ASSOCIATION

A. FORMATION OF HOMEOWNERS' ASSOCIATION:

THE OWNER/DEVELOPER HAS FORMED OR SHALL CAUSE TO BE FORMED AN ASSOCIATION OF THE OWNERS OF ALL RESIDENTIAL LOTS WITHIN ROSE ROCK RESERVE (REFERRED TO HEREIN AS THE "HOMEOWNERS' ASSOCIATION" OR "ASSOCIATION"). THE ASSOCIATION HAS BEEN OR SHALL BE ESTABLISHED IN ACCORDANCE WITH THE STATUTES OF THE STATE OF OKLAHOMA FOR THE GENERAL PURPOSES OF MAINTAINING ALL RESERVE AREAS AND OTHER COMMON AREAS WITHIN "ROSE ROCK RESERVE" AND ANY OTHER RESIDENTIAL SUBDIVISION WHICH MAY BE SUBSEQUENTLY ANNEXED TO OR MERGED WITH THE GEOGRAPHIC JURISDICTION OF THE ASSOCIATION, MAINTAINING ANY OTHER FACILITIES THAT ARE FOR THE COMMON USE AND BENEFIT OF THE LOTS AS THE SAME MAY BE AGREED TO BY THE MEMBERS OF THE ASSOCIATION, AND OTHERWISE ENHANCING THE VALUE, DESIRABILITY, AND ATTRACTIVENESS OF SAID SUBDIVISIONS.

B. MEMBERSHIP:

EVERY PERSON OR ENTITY WHO IS A RECORD OWNER OF THE FEE INTEREST OF A LOT WITHIN "ROSE ROCK RESERVE" SHALL BE A MEMBER OF THE HOMEOWNERS' ASSOCIATION. MEMBERSHIP SHALL BE APPURTENANT TO AND SHALL NOT BE SEPARATED FROM THE OWNERSHIP OF A LOT. THE ACCEPTANCE OF A DEED TO A LOT SHALL CONSTITUTE ACCEPTANCE OF MEMBERSHIP TO THE HOMEOWNERS' ASSOCIATION AS OF THE DATE OF INCORPORATION, OR AS OF THE DATE OF RECORDING OF THE DEED, WHICHEVER OCCURS LAST.

C. COVENANT FOR ASSESSMENTS:

THE OWNER/DEVELOPER AND EACH SUBSEQUENT OWNER OF A LOT, BY ACCEPTANCE OF A DEED THERETO, ARE DEEMED TO COVENANT AND AGREE TO PAY TO THE HOMEOWNERS' 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, ALL RESERVE AREAS DESIGNATED ON THE PLAT. SAID ASSESSMENTS WILL BE ESTABLISHED BY THE BOARD OF DIRECTORS IN ACCORDANCE WITH THE DECLARATION AND THE BYLAWS OF THE HOMEOWNERS' ASSOCIATION. AN UNPAID ASSESSMENT, PROPERLY FILED, SHALL BECOME A LIEN AGAINST THE LOT WHICH IT IS MADE. THE LIEN, HOWEVER, SHALL BE SUBORDINATE TO THE LIEN OF ANY FIRST MORTGAGE.

D. SPECIAL ASSESSMENTS:

IN ADDITION TO THE ASSESSMENTS AUTHORIZED ABOVE, THE HOMEOWNERS' ASSOCIATION MAY LEVY A SPECIAL ASSESSMENT FOR THE PURPOSE OF DEFRAYING, IN WHOLE OR IN PART, THE COSTS OF ANY CONSTRUCTION OR RECONSTRUCTION, REPAIR, OR REPLACEMENT OF A CAPITAL IMPROVEMENT UPON A COMMON AREA OR ENTRYWAYS, INCLUDING THE NECESSARY FIXTURES AND PERSONAL PROPERTY RELATED THERETO AND PAYMENT FOR ANY EXPENSES DEEMED NECESSARY AND APPROPRIATE BY THE BOARD OF DIRECTORS, SUBJECT TO THE TERMS OF AND AS MORE PARTICULARLY PROVIDED IN THE HOMEOWNERS' ASSOCIATION'S BYLAWS.

E. ENFORCEMENT RIGHTS OF THE ASSOCIATION:

WITHOUT LIMITATION OF SUCH OTHER POWERS AND RIGHTS AS THE HOMEOWNERS' ASSOCIATION MAY HAVE, THE HOMEOWNERS' ASSOCIATION SHALL BE DEEMED A BENEFICIARY, TO THE SAME EXTENT AS A LOT OWNER, OF THE VARIOUS COVENANTS SET FORTH WITH THIS DEED OF DEDICATION, AND SHALL HAVE THE RIGHT TO ENFORCE ALL THE COVENANTS TO THE SAME EXTENT AS A LOT OWNER.

SECTION IV. ENFORCEMENT, DURATION, AMENDMENT OR TERMINATION, AND SEVERABILITY

A. 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, SECTION II, RESERVE AREAS, AND SECTION IV, ENFORCEMENT, DURATION, AMENDMENT OR TERMINATION, AND SEVERABILITY ARE CERTAIN COVENANTS AND THE ENFORCEMENT RIGHTS PERTAINING THERETO, AND ADDITIONALLY THE COVENANTS WITHIN SECTIONS I, II, AND IV, 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, HOMEOWNERS' ASSOCIATION SHALL INURE ONLY TO THE BENEFIT OF THE OWNERS OF THE LOTS WITHIN THE SUBDIVISION AND THE HOMEOWNERS' ASSOCIATION PROVIDED FOR IN SECTION III. IF THE UNDERSIGNED OWNER/DEVELOPER, OR ITS SUCCESSORS OR ASSIGNS, OR OWNER OF ANY LOT WITHIN "ROSE ROCK RESERVE" SHALL VIOLATE ANY OF THE COVENANTS HEREIN, IT SHALL BE LAWFUL FOR THE CITY OF BROKEN ARROW, OKLAHOMA, ANY OWNER OF A LOT WITHIN "ROSE ROCK RESERVE", THE HOMEOWNERS' ASSOCIATION, OR ANY OTHER BENEFICIARY AS SPECIFIED WITHIN THE CONCERNED SECTION HEREOF TO MAINTAIN ANY ACTION AT LAW OR IN EQUITY AGAINST THE PERSON OR PERSONS VIOLATING OR ATTEMPTING TO VIOLATE ANY SUCH COVENANT, TO PREVENT SUCH PERSON OR PERSONS FROM SO DOING, OR TO COMPEL COMPLIANCE WITH THE COVENANT. IN ANY JUDICIAL ACTION BROUGHT BY THE HOMEOWNERS' ASSOCIATION OR AN OWNER OF A LOT WITHIN "ROSE ROCK RESERVE", 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 ATTORNEY'S FEES AND COSTS AND EXPENSES INCURRED IN SUCH ACTION.

B. DURATION:

THE COVENANTS CONTAINED IN SECTION III, HEREOF SHALL RUN WITH THE LAND AND SHALL BE BINDING UPON THE UNDERSIGNED OWNER/DEVELOPER, ITS GRANTEES, SUCCESSORS, AND ASSIGNS, AND ALL PARTIES CLAIMING UNDER IT FOR A PERIOD OF TWENTY-FIVE (25) YEARS FROM THE DATE OF THE RECORDING HEREOF, AFTER WHICH TIME SAID COVENANTS SHALL BE AUTOMATICALLY EXTENDED THEREAFTER FOR SUCCESSIVE PERIODS OF TEN (10) YEARS UNLESS AMENDED OR TERMINATED AS HEREINAFTER PROVIDED. ALL OTHER SECTIONS OF THIS DEED OF DEDICATION AND RESTRICTIVE COVENANTS SHALL BE SPECIFICALLY EXEMPTED FROM THE AFORESAID DURATION PROVISIONS.

C. AMENDMENT OR TERMINATION:

THE COVENANTS CONTAINED WITHIN SECTIONS I, II, AND IV, 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, WITH THE APPROVAL OF THE CITY OF BROKEN ARROW, OKLAHOMA. THE COVENANTS WITHIN SECTION III, AND WITHIN ANY OTHER PART HEREOF WHICH DID NOT ORIGINALLY REQUIRE THE APPROVAL OF THE CITY OF BROKEN ARROW, OKLAHOMA, MAY BE AMENDED OR TERMINATED AT ANY TIME WITH 65 PERCENT AGREEMENT OF ALL OWNERS OF LOTS WITHIN "ROSE ROCK RESERVE" WITHOUT APPROVAL FROM THE CITY OF BROKEN ARROW. THE PROVISIONS OF ANY INSTRUMENT AMENDING OR TERMINATING COVENANTS SHALL BE EFFECTIVE FROM AND AFTER THE DATE IT IS PROPERLY RECORDED.

D. 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 SET FORTH HEREIN, WHICH SHALL REMAIN IN FULL FORCE AND EFFECT.

IN WITNESS WHEREOF, THE OWNER HAS CAUSED THESE PRESENTS TO BE EXECUTED THIS _____ DAY OF _____, 2021.

139 BA, LLC
AN OKLAHOMA LIMITED LIABILITY COMPANY

BY: _____
BRIAN J. GREEN, [TITLE]

STATE OF OKLAHOMA)
) SS
COUNTY OF TULSA)

BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, ON THIS _____ DAY OF _____, 2021, PERSONALLY APPEARED BRIAN J. GREEN, TO ME KNOWN TO BE THE IDENTICAL PERSON WHO SUBSCRIBED THE NAME OF 139 BA, LLC TO THE FOREGOING INSTRUMENT, AS ITS _____, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME AS HIS FREE AND VOLUNTARY ACT AND DEED AND AS THE FREE AND VOLUNTARY ACT AND DEED OF 139 BA, LLC FOR THE USES AND PURPOSES THEREIN SET FORTH.

GIVEN UNDER MY HAND AND SEAL THE DAY AND YEAR LAST ABOVE WRITTEN.

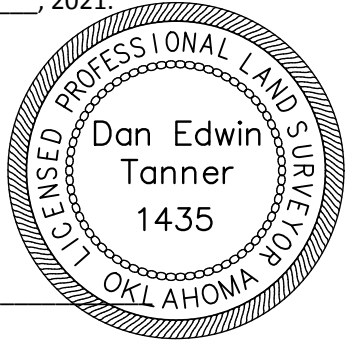
MY COMMISSION EXPIRES

NOTARY PUBLIC

CERTIFICATE OF SURVEY

I, DAN E. TANNER, A LICENSED PROFESSIONAL LAND SURVEYOR IN THE STATE OF OKLAHOMA, DO HEREBY CERTIFY THAT I HAVE CAREFULLY AND ACCURATELY SURVEYED, SUBDIVIDED, AND PLATTED THE TRACT OF LAND DESCRIBED HEREINABOVE, AND THAT THE ACCOMPANYING PLAT IS A TRUE REPRESENTATION OF A SURVEY MADE ON THE GROUND USING GENERALLY ACCEPTED PRACTICES, AND MEETS OR EXCEEDS THE OKLAHOMA MINIMUM STANDARDS FOR THE PRACTICE OF LAND SURVEYING.

WITNESS MY HAND AND SEAL THIS _____ DAY OF _____, 2021.



BY: _____
DAN E. TANNER
LICENSED PROFESSIONAL LAND SURVEYOR
OKLAHOMA NO. 1435

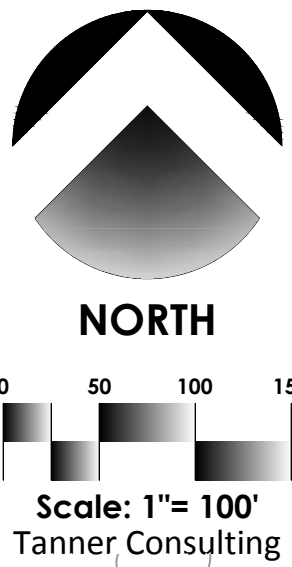
STATE OF OKLAHOMA)
) SS
COUNTY OF TULSA)

BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, ON THIS _____ DAY OF _____, 2021, PERSONALLY APPEARED TO ME DAN E. TANNER KNOWN TO BE THE IDENTICAL PERSON WHO SUBSCRIBED HIS NAME AS LICENSED PROFESSIONAL LAND SURVEYOR TO THE FOREGOING CERTIFICATE, AS HIS FREE AND VOLUNTARY ACT AND DEED, FOR THE USES AND PURPOSES THEREIN SET FORTH.

GIVEN UNDER MY HAND AND SEAL THE DAY AND YEAR LAST ABOVE WRITTEN.

MY COMMISSION EXPIRES

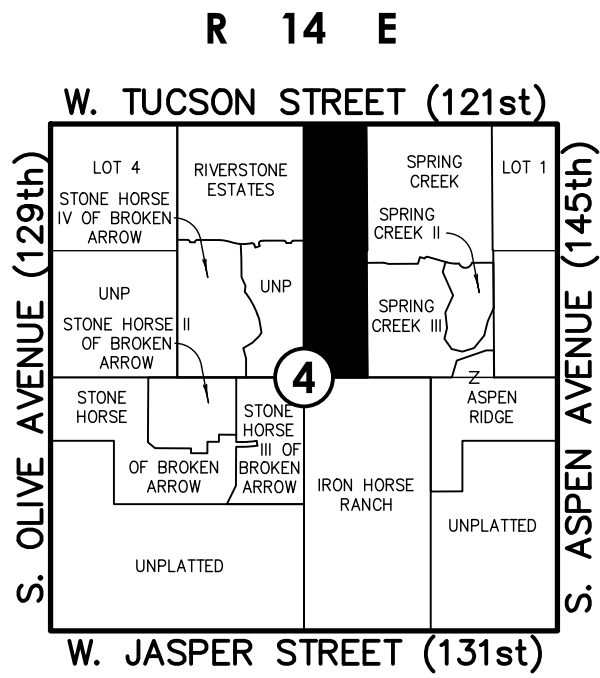
NOTARY PUBLIC



Conceptual Utility Plan

Presley Reserve

PART OF THE WEST HALF OF THE NORTHEAST QUARTER (W/2 NE/4) OF SECTION FOUR (4) TOWNSHIP SEVENTEEN (17) NORTH, RANGE FOURTEEN (14) EAST OF THE INDIAN MERIDIAN A SUBDIVISION WITHIN THE CITY OF BROKEN ARROW, TULSA COUNTY, STATE OF OKLAHOMA



Location Map

Scale: 1"= 2000'

SUBDIVISION CONTAINS:

ONE-HUNDRED THIRTY (130) LOTS
IN FOUR (4) BLOCKS
WITH THREE (3) RESERVE AREAS

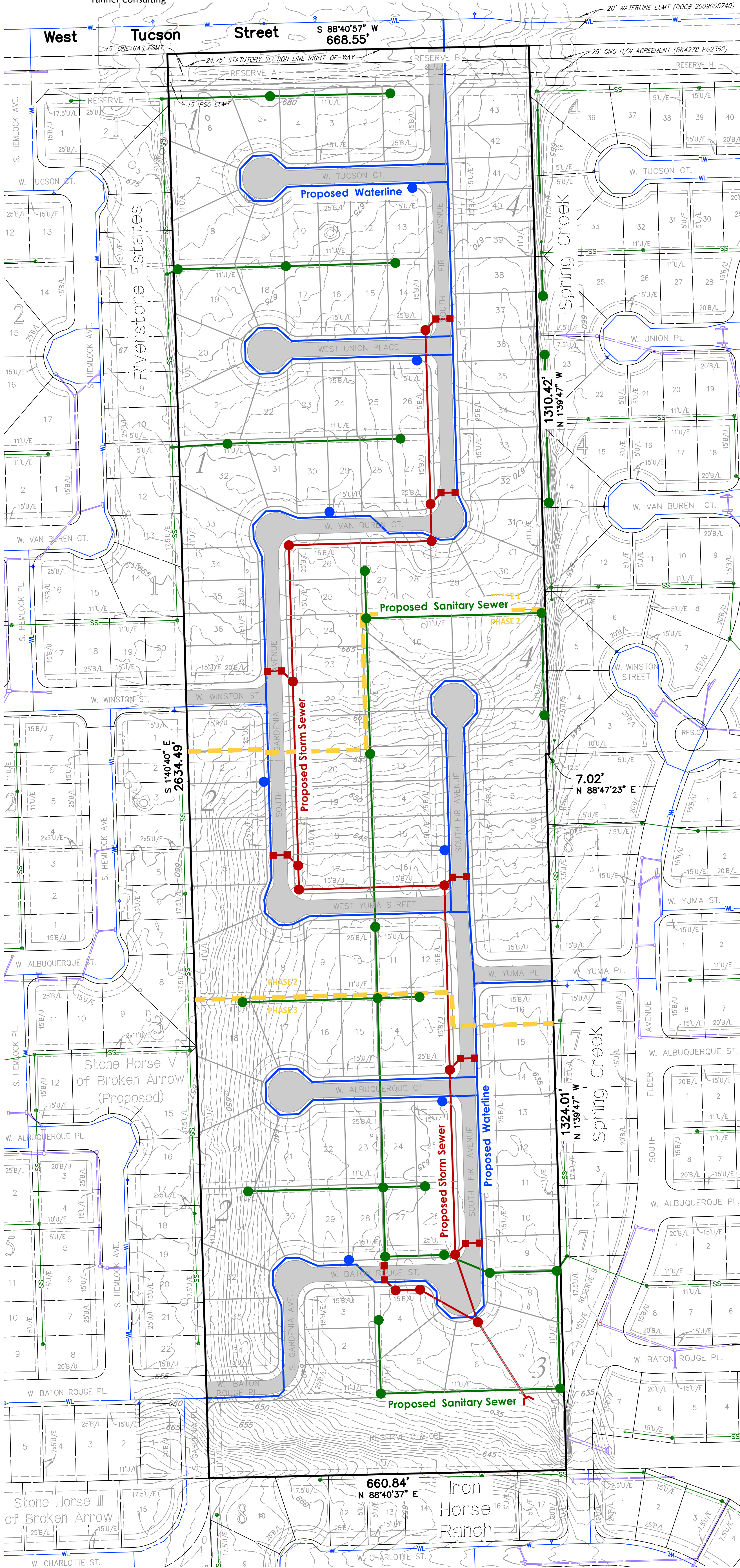
GROSS SUBDIVISION AREA: 40.198 ACRES

OWNER:
**The Robert Lee &
Oma Alice Jones Trust**
OMA ALICE JONES, TRUSTEE
C/O TANNER CONSULTING, LLC
5323 South Lewis Avenue
Tulsa, OK 74105
Phone: (918) 745-9929

SURVEYOR/ENGINEER:
Tanner Consulting, L.L.C.
DAN E. TANNER, P.L.S. NO. 1435
OK CA NO. 2661, EXPIRES 6/30/2021
EMAIL: DAN@TANNERBAITSHOP.COM
5323 South Lewis Avenue
Tulsa, Oklahoma 74105
Phone: (918) 745-9929

LEGEND

- B/L BUILDING LINE
- B/U BUILDING LINE & UTILITY EASEMENT
- BK PG BOOK & PAGE
- CB CHORD BEARING
- CD CL CHORD DISTANCE
- CL CENTERLINE
- Δ DELTA ANGLE
- DOC DOCUMENT
- ESMT EASEMENT
- GOV'T GOVERNMENT
- LNA LIMITS OF NO ACCESS
- ODE OVERLAND DRAINAGE EASEMENT
- R.A. RESTRICTED ACCESS (SEE NOTE 6)
- RES. RESERVE
- R/W RIGHT-OF-WAY
- U/E UTILITY EASEMENT
- 1234 ADDRESS ASSIGNED
- FOUND MONUMENT
- SET MONUMENT (SEE NOTE 2)
- STORM INLET
- STORM JUNCTION
- SANITARY SEWER MANHOLE
- FIRE HYDRANT



APPROVED _____ by the City
Council of the City of Broken Arrow,
Oklahoma.
Mayor _____
Attest: City Clerk _____



City of Broken Arrow

Request for Action

File #: 20-1247, **Version:** 1

Broken Arrow Planning Commission

10-08-2020

To: Chairman and Commission Members

From: Development Services Department

Title:

Public hearing, consideration, and possible action regarding BACP-172 (Comprehensive Plan Change), Robson North, 69.47 acres, Level 2, Level 3, Level 4, and Greenway/Floodplain to Level 2 and Greenway/Floodplain, generally located one-eighth mile north of Kenosha Street (71st Street), one-quarter mile east of 65th Street (241st E. Avenue/Oneta Road)

Background:

Applicant: Tim Terral, Tulsa Engineering and Planning

Owner: The Robson Companies, Inc.

Developer: The Robson Companies, Inc.

Engineer: Tulsa Engineering and Planning

Location: One-eighth mile north of Kenosha Street (71st Street), one-quarter mile east of 65th Street (241st E. Avenue/Oneta Road)

Size of Tract 69.47 acres

Number of Lots: 1

Present Zoning: A-1

Comp Plan: Level 2 (Urban Residential), Level 3 (Transitional), Level 4 (Commercial/Employment Nodes) and Greenway/Floodplain to Level 2 and Greenway/Floodplain

BACP-172 is a request to change the Comprehensive Plan designation from Level 2, Level 3, Level 4, and Greenway/Floodplain to Level 2 and Greenway/Floodplain on 69.47 acres located one-eighth mile north of Kenosha Street (71st Street), one-quarter mile east of 65th Street (241st E. Avenue/Oneta Road). The property is unplatted and undeveloped.

The area associated with BACP-172 was designated as Level 2 in the previous Comprehensive Plan. When the 2019 Comprehensive Plan was prepared there were discussions between the property owner and the consultant about creating the "Forest Ridge Area Town Center". As noted in the 2019 Comprehensive Plan, "Today, residents of Forest Ridge do not have many options for nearby retail or entertainment. There a potential to develop retail and commercial along Kenosha near Forest Ridge with a "town center" feel. Types of development that might be appropriate include small-scale grocery, retail, dining, office, and residential." Along these lines, the area associated with BACP-172 was designated as Level 2, Level 3, Level 4, and Greenway/Floodplain with a Special District Overlay. While the "Forest Ridge Area Town Center" can still occur, the owner of the property associated with BACP-172 wants to develop single-family detach homes in the area that was predominantly designated as Level 3. As a result, they have submitted BACP-172 requesting that

the Level 3 area, along with a small portion of Level 4 be changed to Level 2. The existing small area of Level 2 would remain. If BACP-172 is approved, they will be applying to change the zoning from A-1 to RS-3.

SURROUNDING LAND USES/ZONING/COMPREHENSIVE PLAN

The surrounding properties contain the following uses, along with the following development guide and zoning designations:

Location	Comprehensive Plan	Zoning	Land Use
North	Level 1 and Greenway/Floodplain	Unincorporated Wagoner County	100-year floodplain and large lot single family residential
East	Level 1 and Greenway/Floodplain	A-1	100-year floodplain and large lot single family residential
South	Level 4	A-1	Undeveloped
West	Greenway/Floodplain	A-1	100-year floodplain and large lot single family residential

Attachments: Case Map
Aerial Photo
Comprehensive Plan
Comprehensive Plan excerpt

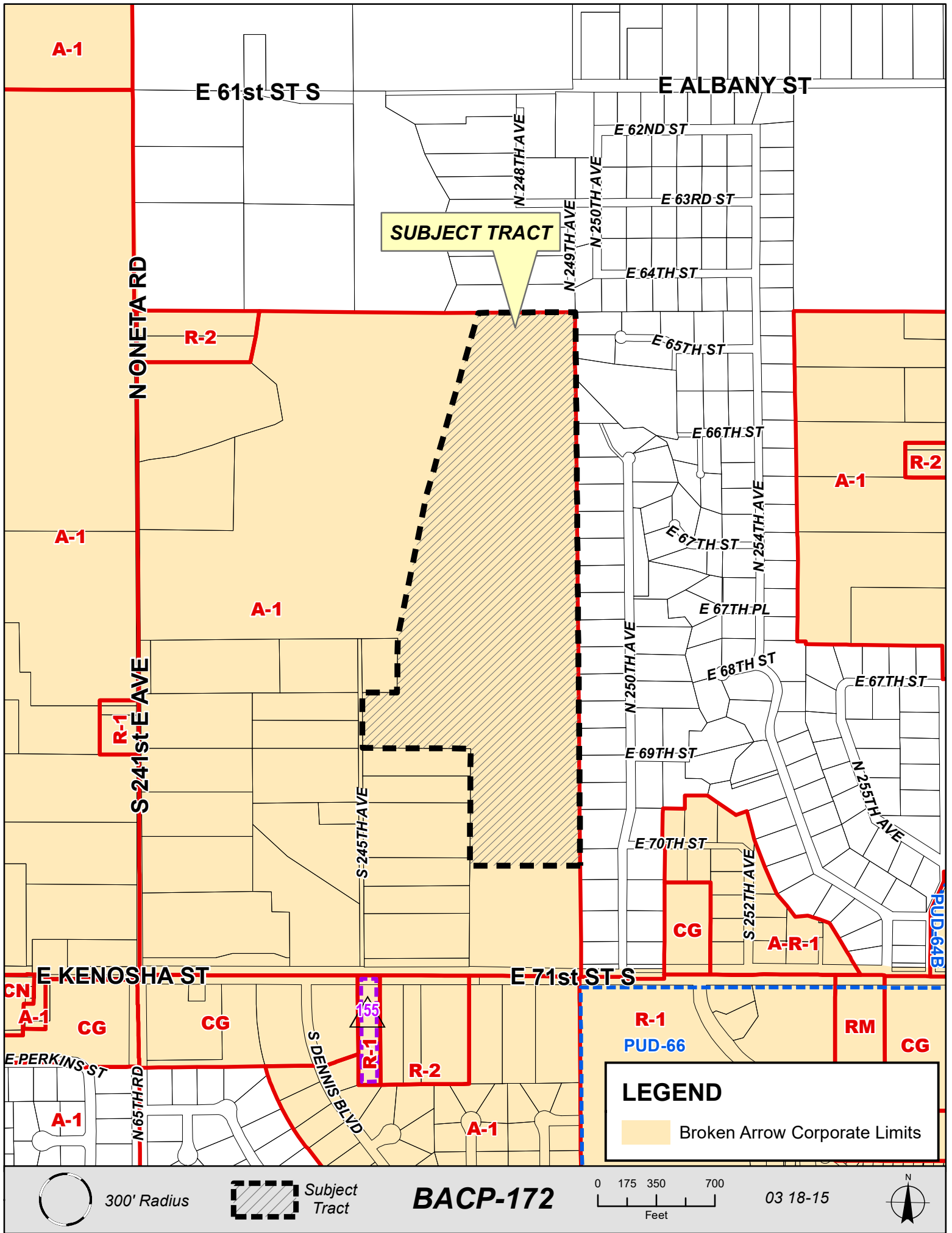
Recommendation:

Staff recommends that BACP-172 be approved as requested, subject to the property being platted.

Reviewed by: Jill Ferenc

Approved by: Larry R. Curtis

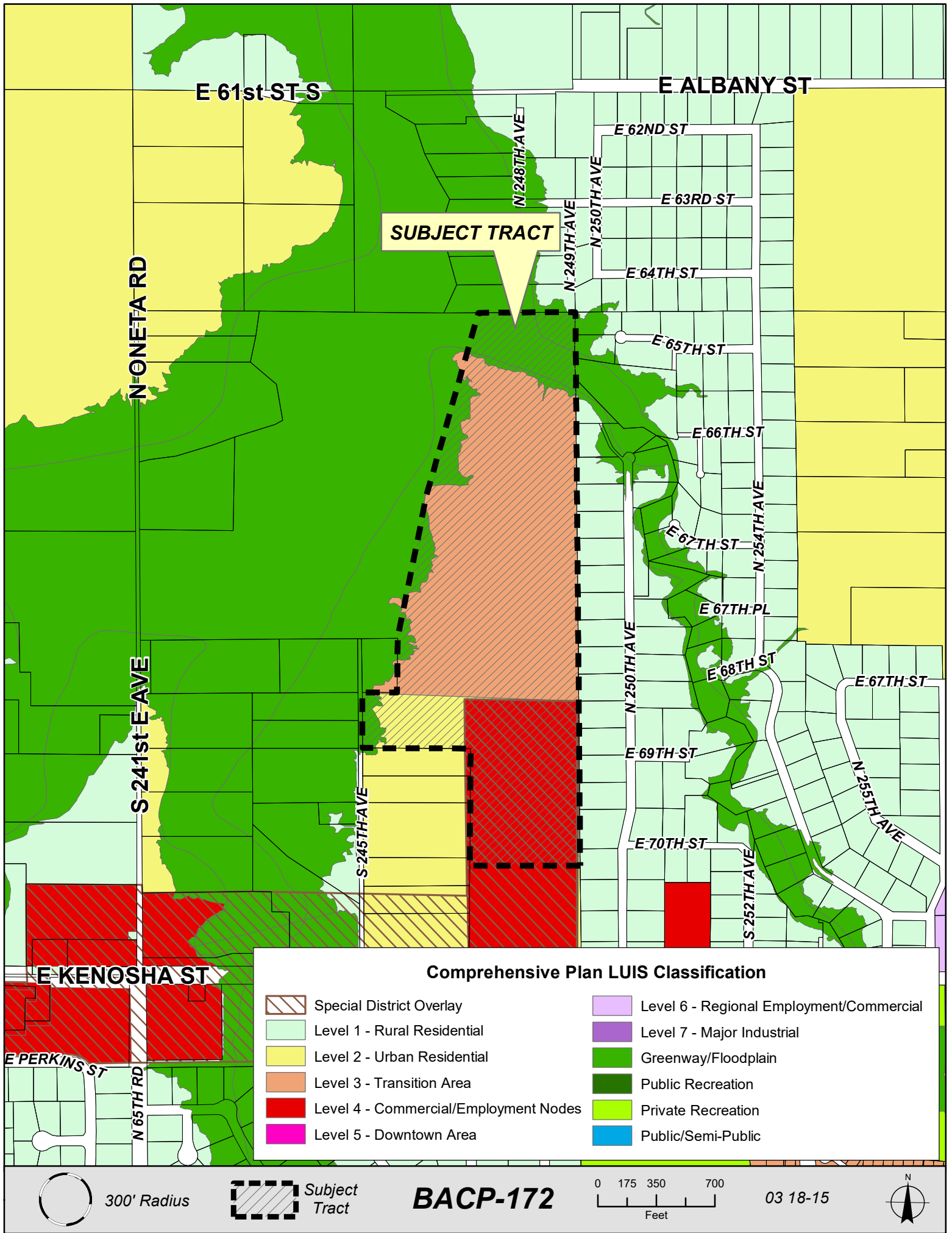
BDM





BACP-172





FOREST RIDGE AREA TOWN CENTER

Forest Ridge is a large neighborhood centered on a private golf course in the very eastern part of the incorporated city limits. Today, residents of Forest Ridge do not have many options for nearby retail or entertainment. There is potential to develop retail and commercial along Kenosha near Forest Ridge with a 'town center' feel. Types of development that might be appropriate include small-scale grocery, retail, dining, office, and residential.

The 2019 Future Development Guide recommends Level 4 – Commercial/Employment Node for the four corners surrounding the Kenosha and 65th St/Oneta intersection with a special district overlay. In order to inform the desired characteristics, a special area plan could be conducted for the Kenosha corridor near Forest Ridge to develop a vision to guide future development. This would be similar to the Elm and New Orleans small area plan. Elements to consider for a small area plan for the Forest Ridge area include:

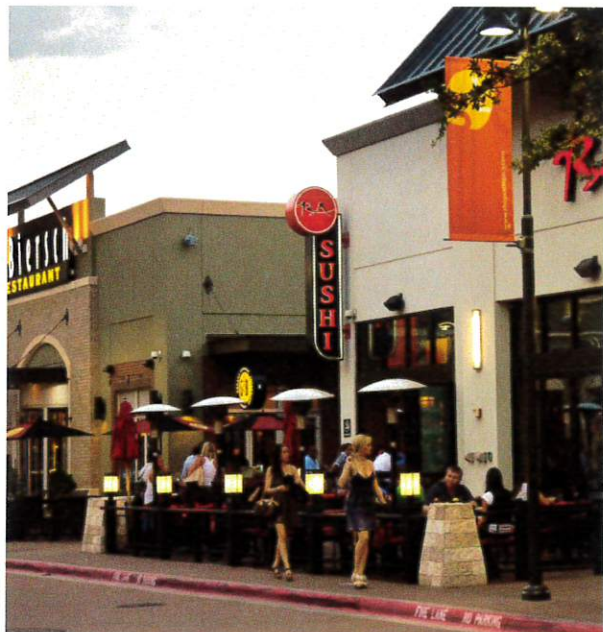
- Enhanced streetscape features along Kenosha.
- Walkability within the town center.
- Mixture of retail, office, dining, open space, and residential uses.
- Buffer between the town center and surrounding residential uses.

FOUR CORNER RETAIL AREAS

Originally established with the introduction of the Land Use Intensity Model set forth in the 1997 plan, the Future Development Guide features retail at each corner of major intersections, surrounded by 'transition' areas. In parts of the City where these four corner retail areas are developed, some are starting to show their age. The intersection of Elm and New Orleans is a good example, as well as New Orleans and Aspen. As properties start to turn over at these intersections, opportunities for redevelopment arise.

Considerations for enhancing or redeveloping existing four corner retail intersections include:

- Improving streetscape features leading up to the intersection.
- Incorporating updated signage.
- Establishing a unique 'brand' for the corner.





City of Broken Arrow

Request for Action

File #: 20-1248, **Version:** 1

Broken Arrow Planning Commission
10-08-2020

To: Chairman and Commission Members
From: Development Services Department

Title: Public hearing, consideration, and possible action regarding PUD-47H (Planned Unit Development), Cloudi Mornings, 0.21 acres, PUD-47/CG/IL to PUD-47H/CG/IL, located one-quarter mile south of Albany Street (61st Street), one-half mile west of Olive Avenue (129th E. Avenue)

Background:

Applicant: Austin Miller
Owner: Patricia Williams
Developer: Austin Miller
Engineer: NA
Location: One-quarter mile south of Albany Street (61st Street), one-half mile west of Olive Avenue (129th E. Avenue)
Size of Tract 0.24 acres
Present Zoning: PUD-47/CG/IL
Proposed Zoning: PUD-47H/CG/IL
Comp Plan: Level 6

Planned Unit Development (PUD)-47H involves a 0.24-acre parcel located one-quarter mile south of Albany Street (61st Street), one-half mile west of Olive Avenue (129th E. Avenue). Applicant is requesting a major amendment to PUD-47 to allow a medical marijuana growing/cultivation facility to be located on the property. The property, which is located at 2201 N. Yellowwood Avenue, (South 55 feet of Lot 21, Block 3, 6100 Center), is presently zoned PUD-47/CG/IL.

When the public notice for this PUD amendment was provided, it had referenced PUD-35C and PUD-47H. Upon further examination, it was discovered that this property is not located in PUD-35 and only PUD-47H is applicable.

PUD-35, which contained 79.04 acres, was approved by the City Council on May 16, 1983. Previously, in September 1973, the City Council had approved BAZ-432 to change the zoning on the property associated with PUD-35 from R-1 to 61.22 acres of I-1, 14.87 acres of R-5, and 3.91 acres of O-2. PUD-35 proposed a mixture of land uses including multifamily, commercial, and industrial. While the property where PUD-47H is located contained an underlying zoning as R-5 and I-1, the property was designated as “industrial” in PUD-35. PUD-35 did not place any limitations on the uses permitted. Therefore, the industrial uses permitted are those that

were allowed in 1983 when PUD-35 was approved.

On April 16, 1984, the City Council approved PUD-47 and BAZ-962, a request to change the R-5 zoning associated with the multifamily area of PUD-35 to I-1, light industrial. With the approval of BAZ-962, the underlying zoning on the property associated with PUD-47H became O-2 and I-1. However, PUD-47 stated that the uses permitted on the property were those allowed in the I-1 district. In 2008, the City of Broken Arrow updated its Zoning Ordinance, and the area that had been designated as O-2 when BAZ-962 was approved was changed to CG. As a result, the zoning map now shows the zoning on the property to be PUD-47/CG/IL.

At the time PUD-47 was approved, the growing of medical marijuana was not recognized as a permitted use in the I-1 district.

On September 18, 2018, the City Council approved Ordinance 3540 that established regulations for retail medical marijuana dispensaries and medical marijuana commercial growing/cultivating facilities. Medical marijuana growing/cultivating facilities were recognized as a permitted use in the IL (Industrial Light) zoning district. On September 25, 2018, a lawsuit was filed asking the court to make a legal determination whether the City of Broken Arrow had any authority to zone or otherwise regulate medical marijuana businesses within city limits. The trial court agreed with the plaintiff and on October 17, 2018, issued a declaratory judgement finding, as a matter of law, that Oklahoma cities were precluded from adopting regulations, zoning overlays, fees, or other restriction relating to medical marijuana business activities. This decision was appealed by the City of Broken Arrow. The Oklahoma Legislature enacted laws that became effective August 30, 2019, that stated, "Municipalities may follow their standard planning and zoning procedures to determine if certain zones or districts would be appropriate for locating marijuana-licensed premises, medical marijuana businesses or any other premises where marijuana or its by-products are cultivated, grown, processed, stored or manufactured." The plaintiff's lawsuit was dismissed by the Oklahoma Supreme Court on November 19, 2019. A complete copy of the Supreme Court ruling is attached with this Staff report.

Today, the City of Broken Arrow Zoning Ordinance recognizes that medical marijuana growing/cultivating is a permitted use in the IL district. For the applicant to be able to renew their medical marijuana license, they must receive acknowledgement from the local jurisdiction that the growing/cultivation facility is in compliance with the Zoning Ordinance. Therefore, for Staff to acknowledge that the zoning is in compliance, medical marijuana growing/cultivation has to be recognized as a permitted use. Since PUD-47 did not acknowledge medical marijuana growing/cultivation as a permitted use, the PUD must be modified. According to the Zoning Ordinance, to change the list of permitted uses in a PUD requires a major amendment to the PUD. As a result, applicant has submitted a request for a major amendment to PUD-47 to allow medical marijuana growing/cultivation to be a permitted use. This is the only change being requested to PUD-47.

According to the applicant, they have contacted the Board for the 6100 Center Property Owners Association about their requested modification to PUD-47 and was informed that the Board had no issues with the request.

SURROUNDING LAND USES/ZONING/COMPREHENSIVE PLAN

The surrounding properties contain the following uses, along with the following development guide and zoning designations:

Location	Development Guide	Zoning	Land Use
North	Level 6	PUD-47/CG/IL	Light Industrial
East	Level 6	PUD-35/IL	Light Industrial
South	Level 6	PUD-47/IL	Light Industrial
West	Level 6	PUD-47/CG	Light Industrial

The property associated with PUD-47H is designated as Level 6 in the Comprehensive Plan. The existing light industrial designation in PUD 47 is in accordance with the Comprehensive Plan in Level 6.

According to Section 6.4 of the Zoning Ordinance, the PUD provisions are established for one (1) or more of the following purposes:

1. To permit and encourage innovative land development while maintaining appropriate limitation on the character and intensity of use and assuring compatibility with adjoining and proximate properties.
2. To permit greater flexibility within the development to best utilize the physical features of the particular site in exchange for greater public benefits than would otherwise be achieved through development under this Ordinance.
3. To encourage the provision and preservation of meaningful open space.
4. To encourage integrated and unified design and function of the various uses comprising the planned unit development.
5. To encourage a more productive use of land consistent with the public objectives and standards of accessibility, safety, infra structure and land use compatibility.

In Staff's opinion, PUD-47 continues to satisfy item 1 of Section 6.4.A of the Zoning Ordinance. When PUD-47 was approved by the City Council in 1984, a height limitation of one story was placed on buildings within 150 feet of the Melinda Park addition to the west. In addition, buildings were required to setback at least 75 feet from the property line abutting the Melinda Park addition, along with a 40-foot wide landscape buffer. All these conditions remain. The only change being made is to allow the growing/cultivation of medical marijuana inside an enclosed building on the east side of Yellowwood Avenue.

According to the Zoning Ordinance, no schools are allowed within a 1,000 feet of a medical marijuana growing/facility. A detailed survey will be conducted as part of any application for a medical marijuana license from the City of Broken Arrow. Staff did review aerial photographs, and there were no schools found within 1,000 feet of the proposed growing/cultivation facility.

According to FEMA maps, none of the property is located in a 100-year floodplain area.

Attachments: Case map
Aerial photo

Comp Plan
Design Statement for PUD-47H
Design Statement for PUD-47
Case maps for BAZ-432 and BAZ-962
November 19, 2019, Oklahoma Supreme Court ruling
September 1, 2020, email from Austin Miller

Recommendation:

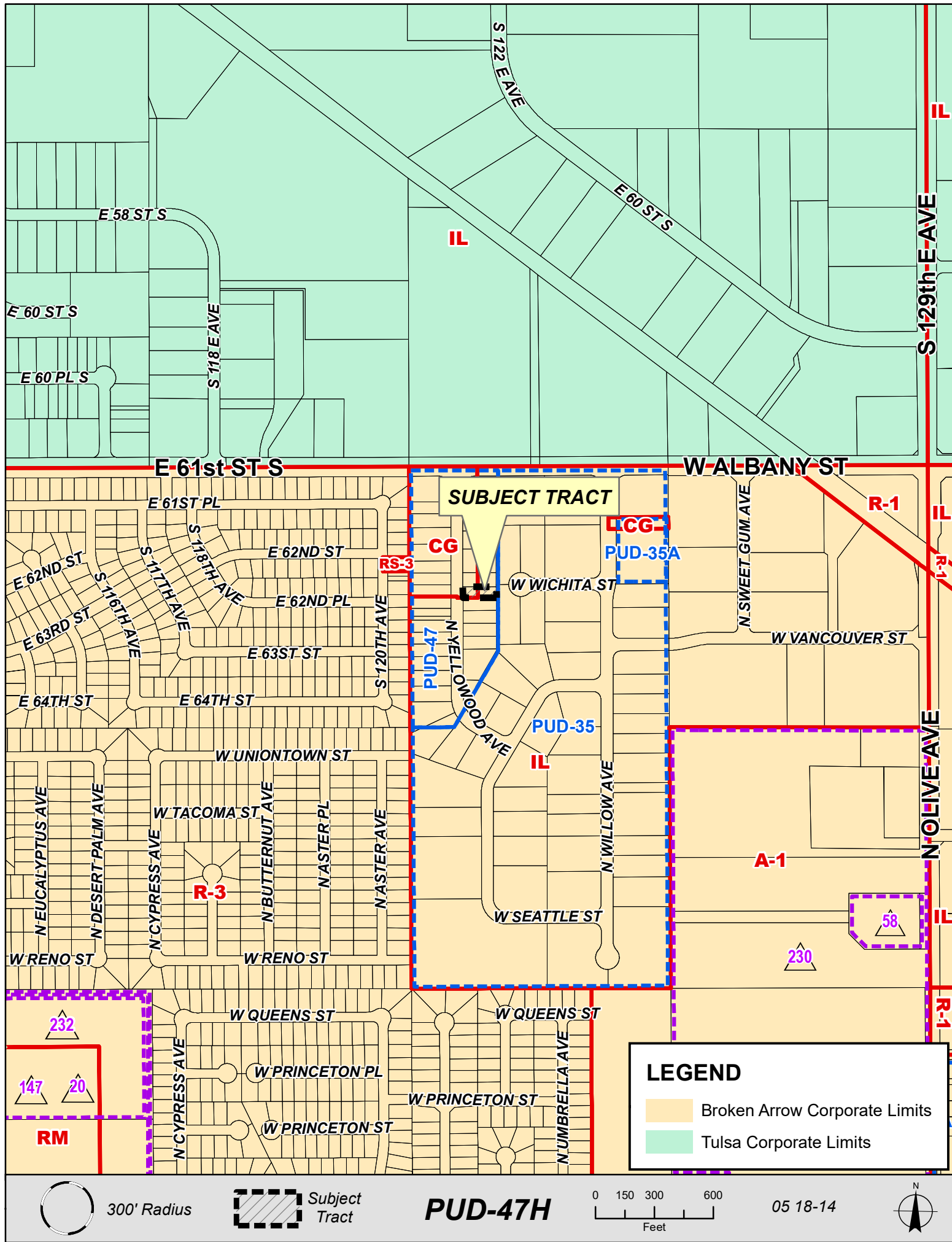
On September 18, 2018, the City of Broken Arrow adopted regulations pertaining to medical marijuana facilities. Medical marijuana growing/cultivation is recognized as a permitted use in the IL (Industrial Light) district. When PUD 47 was approved in 1984, medical marijuana growing/cultivation was not recognized as a legal use and was not included as a permitted use in PUD-47. To change any permitted uses in a PUD requires a major amendment to the PUD. PUD-47H addresses this unique situation and requests that medical marijuana growing/cultivation be allowed as a permitted use on the property.

Based upon the Comprehensive Plan, the location of the property, the existing PUD, the unique condition associated with the request, and the surrounding land uses, Staff recommends that PUD-47H be approved as requested. Since the property has already been platted, Staff recommends that platting be waived.

Reviewed by: **Jill Ferenc**

Approved by: **Larry R. Curtis**

BDM



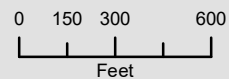


Note: Graphic overlays may
not precisely align with physical
features on the ground.
Aerial Photo Date February 2018



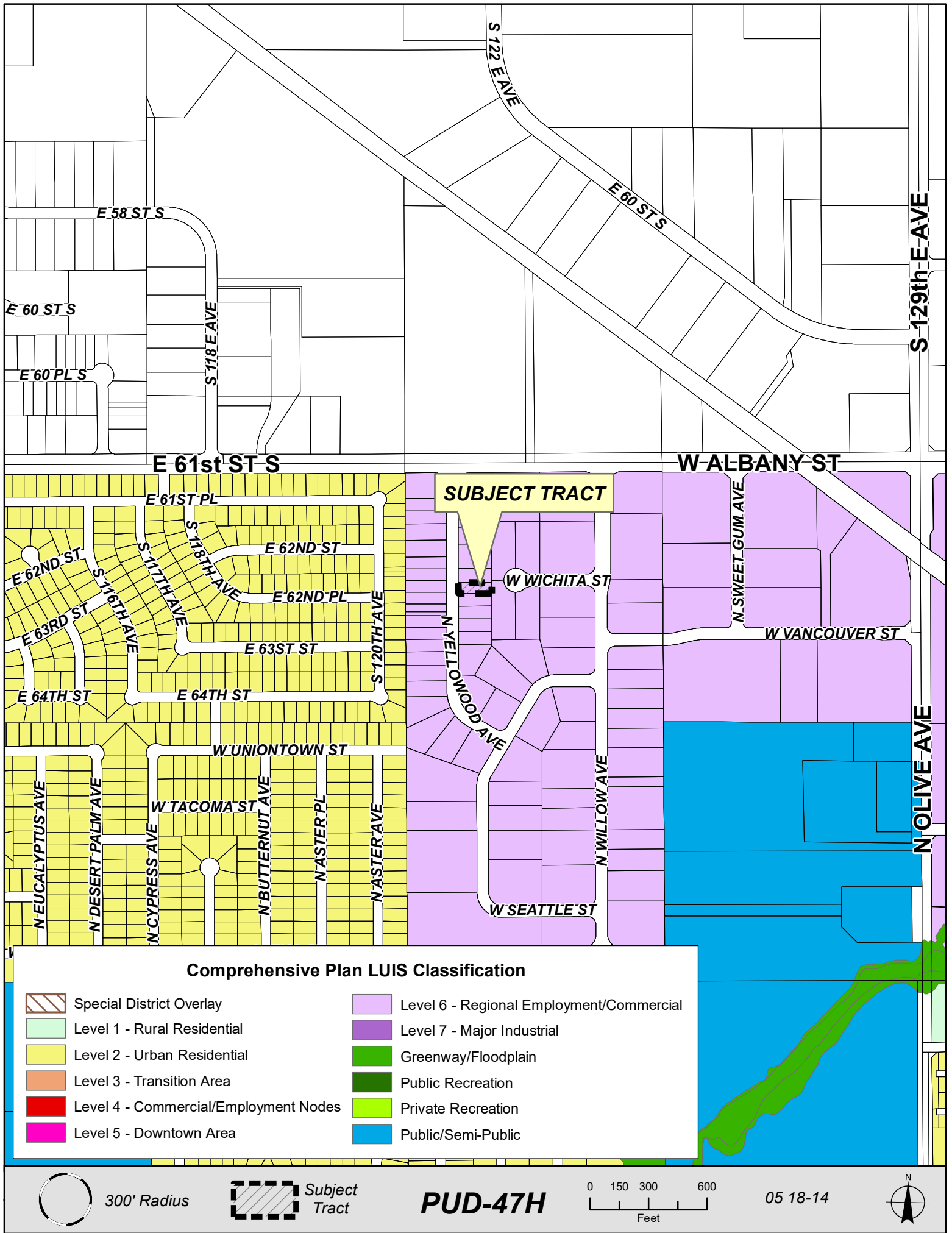
Subject
Tract

PUD-47H



05 18-14





Cloudi Mornings LLC

2201 N Yellowwood

Broken Arrow Ok 74012

Brent,

Cloudi Mornings LLC is requesting an amendment to PUD to add to the permitted (intended) use list to be revised to include Medical Marijuana Growing.

Thank you,

Cloudi Mornings LLC

PLANNED UNIT DEVELOPMENT

A Planned Industrial Community

for the

West 1/2 of the Northeast 1/4 of Section 5,

T-18-N, R-14-E, City of Broken Arrow

FEB 1984

DEVELOPMENT CONCEPT

6100 South East Park Amended is a development for light industrial uses. Within the light industrial development, adjacent to the single family subdivision, it is important to maintain a buffer between residential subdivisions and industrial uses.

In this P.U.D. there are three ways to maintain this buffer from the residential subdivision. 1st a 40' landscaped buffer will be used; 2nd a 75' building setback line, rather than 50' as required by the zoning ordinance, will be enforced. The 3rd method to maintain a buffer is a height restriction of one floor within 150' of Melinda Park.

dev concept

DEVELOPMENT STANDARDS

<u>Permitted Uses:</u>	As Allowed in the I1, Light Industrial District
<u>Maximum Floor Area</u>	As governed in Section 20.5, City of Broken Arrow Zoning Ordinance #302
<u>Maximum Building Height</u>	Within 150' of the Melinda Park Subdivision no building shall be more than one story in height. Any structure or building further than 150' from Melinda Park shall conform to section 20.7 in the City of Broken Arrow Zoning Ordinance #302.
<u>Parking Ratio</u>	1 space per 1,000 square feet of floor area.
<u>Minimum Landscaped Open Space</u>	40' wide landscape buffer between industrial and residential areas.
<u>Building Setback</u>	Within 75' of Melinda Park, there shall be no building. The remainder of the tract shall be governed by Section 20.6, City of Broken Arrow Zoning Ordinance 302.

ENVIRONMENTAL ANALYSIS

TOPOGRAPHY

The site has an elevation change of 33 feet from the northwest property corner to the southeast property corner. The land slopes gently to the southeast into a drainage system that exits at the southeast corner. Several ponds exist in the drainage way but are not expected to be a part of the development.

SLOPES

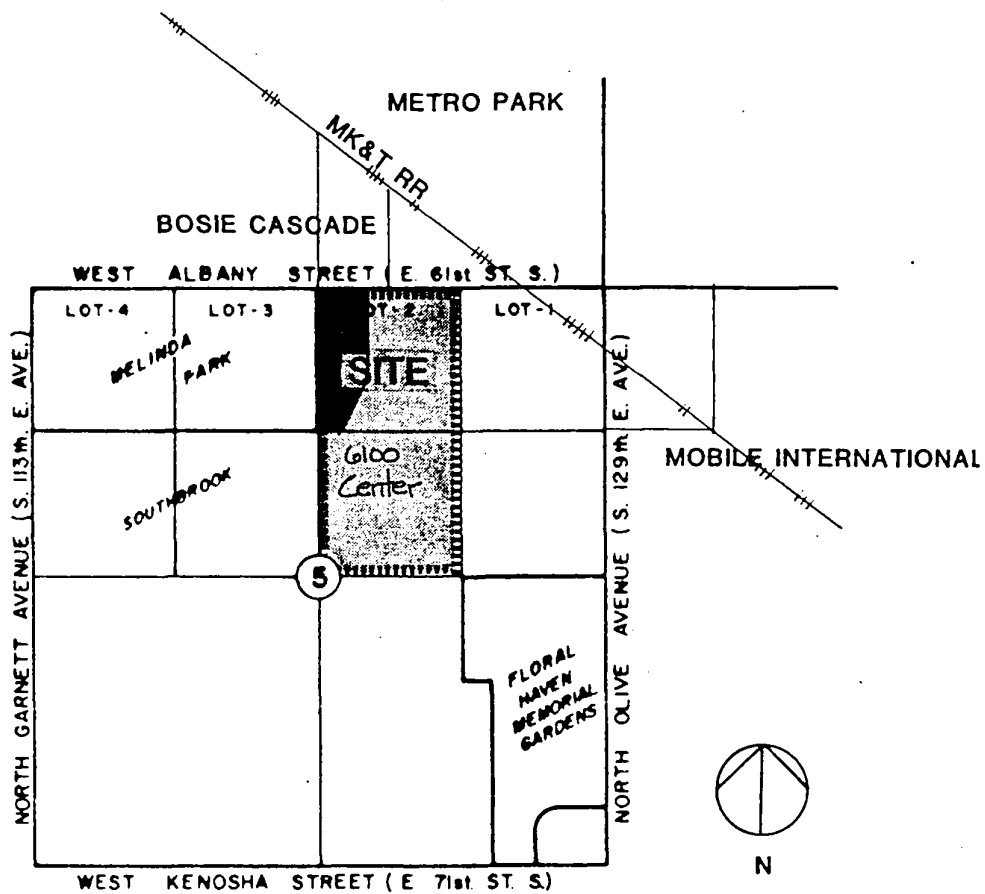
The site is well suited to any type of development. Slopes, from west to east, average 3 percent. The most severe slopes are along the drainage ways. Maximum slopes never exceed 10 percent.

DRAINAGE-EXHIBIT E

Drainage in and through the property is practically self-contained. Ridge lines along the west, north and east edges of the development limit offsite storm water to less than 5 acres. Most of the storm water collecting on the development exits near the southeast corner. The development is in the upper reaches of the Haikey Creek drainage system. 100 year flood areas do not encroach on the property.

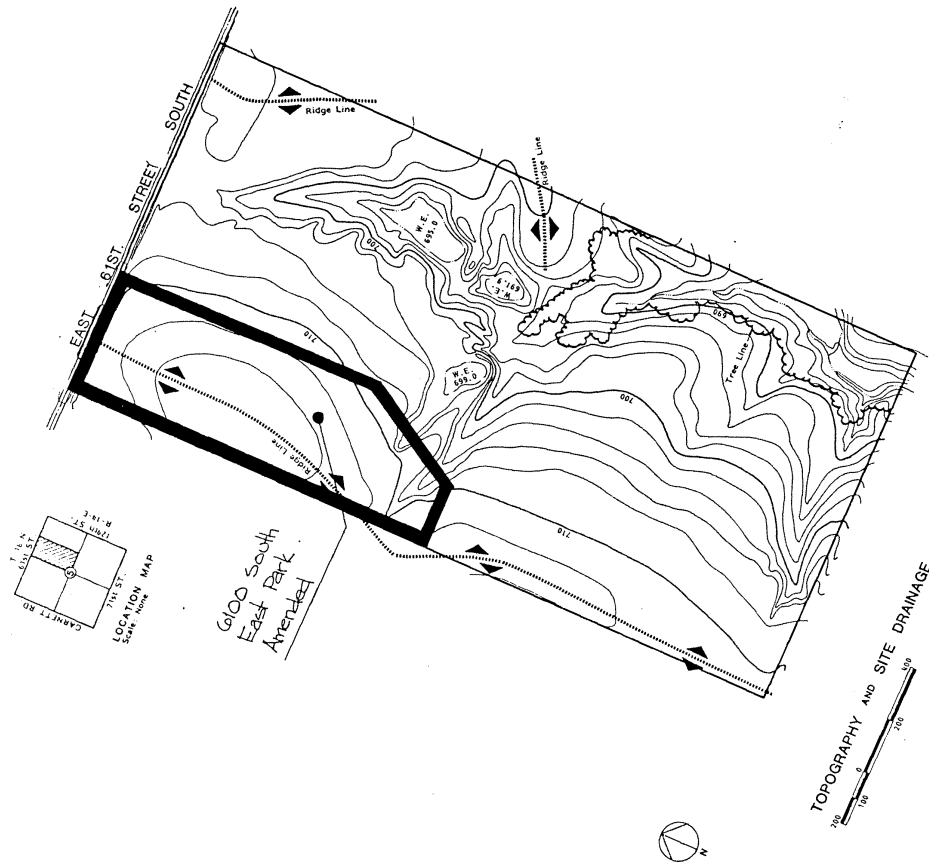
TREED AREAS

Several trees of significant size are located along the drainage way at the east property line. A majority of the trees are south of the quarter section line and will not significantly affect the development layout or design.



ABUTTING DEVELOPMENT

SCALE: NONE



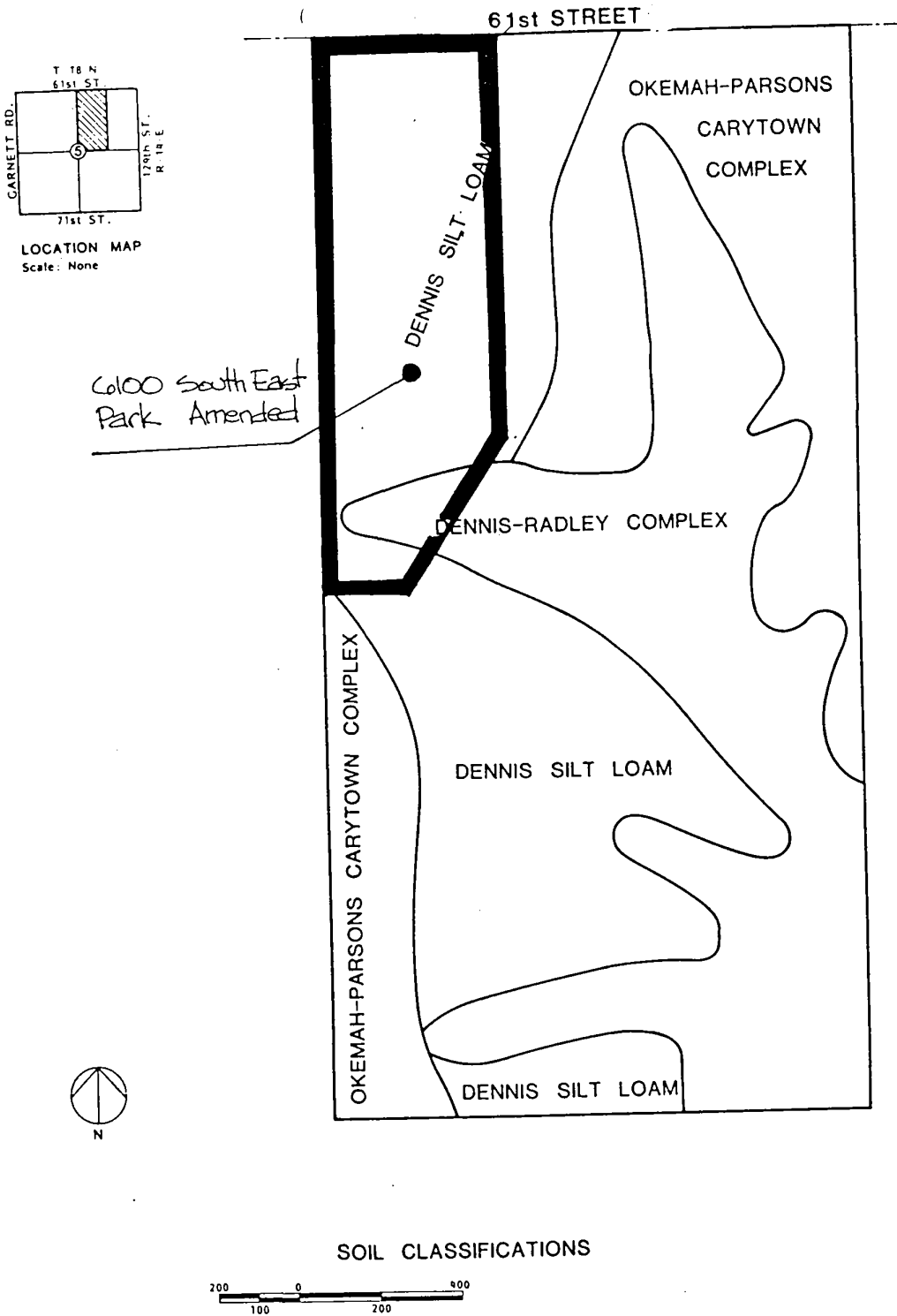
UTILITIES

All utilities will be available from the 6100 Center Industrial Park which is east and south of the 11.4 acre tract. 6100 Center is under construction, the utilities will be in place, ready for connection within 8 months.

SOILS

Denis Silt Loam

Depth to bedrock is greater than 60 inches. Slopes are generally 1 to 3 percent. Denis silt loam is a gently sloping, moderately well drained, slowly permeable soil on uplands. The main concern for development are the slow permeability and high shrink-swell potential.



EXPECTED SCHEDULE OF DEVELOPMENT

The project is expected to commence within twelve (12) months and would be completed within twenty-four (24) months thereafter.

IL

IL

IL

AG

I-1

BAZ - 432

I-1

C-4 C-3

R-1

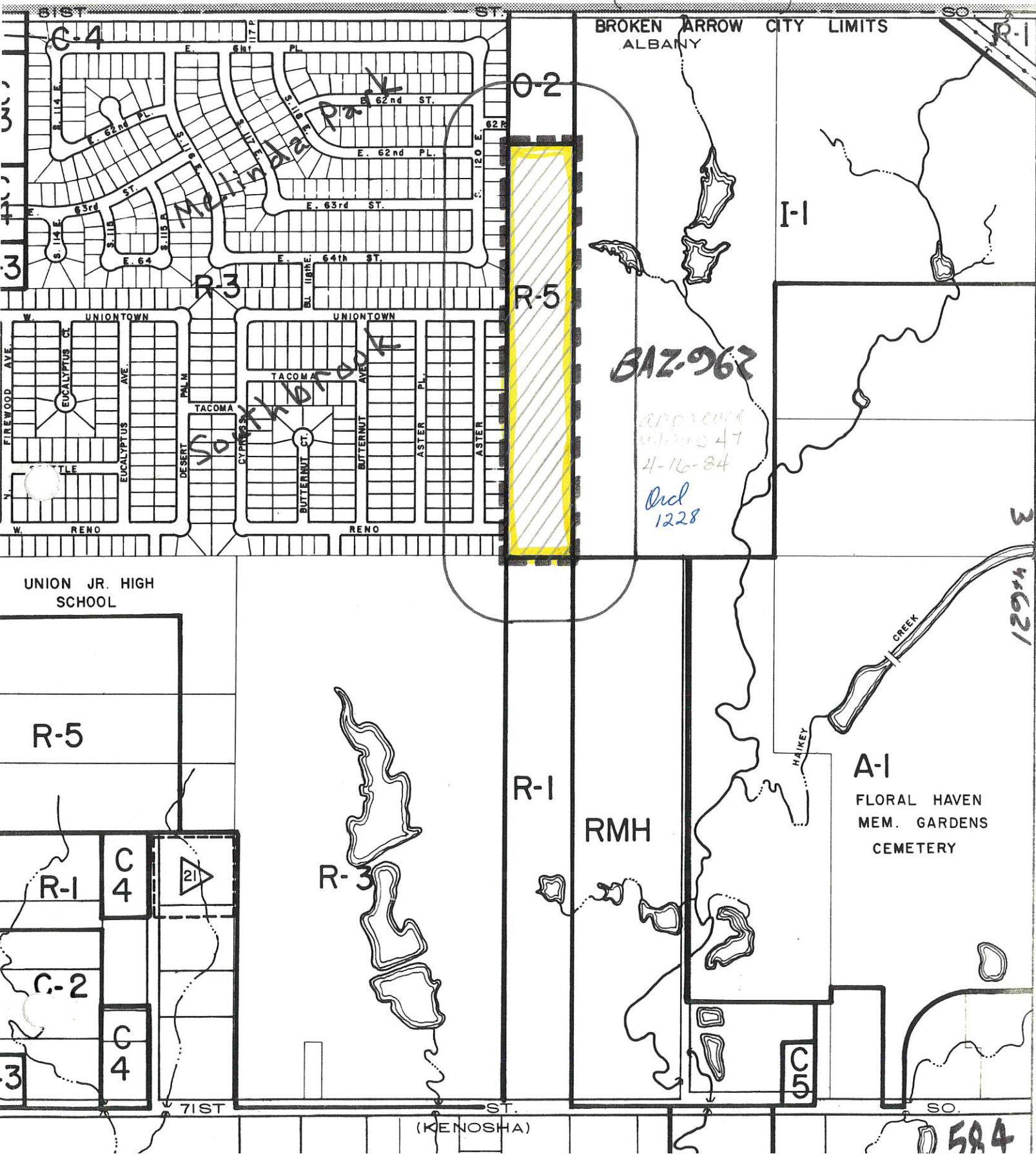
RMH

C-4

C-4

129th E. AVE

(61st Street)



ORIGINAL

2019 OK 75



IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

CLOUDI MORNINGS, LLC., and
AUSTIN MILLER, individually,

Plaintiffs/Appellees,

v.

THE CITY OF BROKEN ARROW,

Defendant/Appellant.

Rec'd (date)	11-19-19
Posted	
Mailed	
Distrib	
Publish	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no

FILED
SUPREME COURT
STATE OF OKLAHOMA

NOV 19 2019

JOHN D. HADDEN
CLERK

No. 117,500

FOR PUBLICATION

APPEAL FROM THE TULSA COUNTY DISTRICT COURT

Honorable Patrick Pickerill, Trial Judge

¶0 The voters of the State of Oklahoma passed State Question 788, codified at 63 O.S. Supp. 2018 §420A et seq., on June 26, 2018, legalizing medical marijuana. Subsequently, the City of Broken Arrow enacted local zoning ordinances No. 3540 and 3542 in an attempt to incorporate the introduction of medical marijuana businesses into their community. On September 25, 2018, the plaintiffs/appellees, filed a Petition for Declaratory Judgment and Injunctive Relief in the Tulsa County District Court asking the court to make a legal determination that the City of Broken Arrow had no authority whatsoever to zone or otherwise regulate medical marijuana businesses within city limits. The trial court agreed with the plaintiffs, and on October 17, 2018, issued a declaratory judgment finding, as a matter of law, that Oklahoma cities were precluded from adopting regulations, zoning overlays, fees or other restrictions relating to medical marijuana business activities. The City appealed. The Oklahoma Legislature enacted 63 O.S. Supp. 2019 §425(f), as amended by SB 1030 (effective August 30, 2019) in an apparent attempt to clarify the voter approved enactment and to provide further direction for municipalities to incorporate marijuana businesses within their city limits. On June 24, 2019, we remanded the cause back to the Tulsa County District Court to enter Findings of Fact and Conclusions of Law specifically

addressing: 1) whether Broken Arrow, though enactment of its ordinances, has “unduly change[d] or restrict[ed] zoning laws so as to prevent the opening of a retail marijuana establishment; and 2) the impact of the statutory amendment on the validity of the City ordinances. On October 18, 2019, the trial court entered an order answering our questions and making express findings of fact and conclusions of law. We now dismiss the appeal for lack of case or controversy.

APPEAL DISMISSED.

Trevor A. Dennis,
Acting City Attorney,
City of Broken Arrow,

Charles S. Plumb,
Michael F. Smith,
Jacob S. Crawford,
Tulsa, Oklahoma,

Attorneys for Appellant.

John E. Rooney, Jr.,
Ronald E. Durbin,
Tulsa, Oklahoma,

Attorney for Plaintiffs/Appellees.

KAUGER, J.:

¶1 We retained this cause to address the authority of a city, such as the City of Broken Arrow, to zone/regulate a medical marijuana establishment within city limits. However, because the cause lacks any case or controversy as to these plaintiffs, and is merely a request for an advisory opinion, we must dismiss the appeal.¹

¹On December 10, 2018, applicants Sooner Green, L.L.C. and Heather Whitsell and The Oklahoma Municipal League filed an application to file an Amicus Curiae Brief without consent by the parties. On December 12, 2018, we deferred consideration of the motion to the decisional stage. Because of our holding, an amicus curiae brief is

FACTS/PROCEDURAL POSTURE

¶2 On September 25, 2018, the plaintiffs/appellees, Cloudi Mornings and Austin Miller (collectively Cloudi Mornings) filed a Petition for Declaratory Judgment and Injunctive Relief in the District Court of Tulsa County. In the petition, Cloudi Mornings stated that it is an L.L.C. with its primary business activities located within the City of Broken Arrow and that Austin Miller was a resident of Broken Arrow.

¶3 They contend that as a “business within city limits,” they have a vested interest in City enacted medical marijuana rules related to the voter approved June 26, 2018, Initiative Petition 788 which legalized medical marijuana in the State of Oklahoma. The Initiative Petition became codified as 63 O.S. Supp. 2018 §§420 et seq. (The Act).²

unnecessary and the applications are hereby denied.

²Title 63 O.S. Supp. 2018 §420 as enacted provided:

A. A person in possession of a state issued medical marijuana license shall be able to:

1. Consume marijuana legally;
2. Legally possess up to three (3) ounces of marijuana on their person;
3. Legally possess six (6) mature marijuana plants;
4. Legally possess six (6) seedling plants;
5. Legally possess one (1) ounce of concentrated marijuana;
6. Legally possess seventy-two (72) ounces of edible marijuana; and
7. Legally possess up to eight (8) ounces of marijuana in their residence.

B. Possession of up to one and one-half (1.5) ounces of marijuana by persons who can state a medical condition, but not in possession of a state issued medical marijuana license, shall constitute a misdemeanor offense with a fine not to exceed Four Hundred Dollars (\$400.00).

C. A regulatory office shall be established under the Oklahoma State Department of Health which will receive applications for medical license recipients, dispensaries, growers, and packagers within sixty (60) days of the passage of this initiative.

D. The Oklahoma State Department of Health shall within thirty (30) days of passage of this initiative, make available, on their website, in an easy to find location, an application for a medical marijuana license. The license will be good for two (2) years, and the application fee will be One Hundred Dollars (\$100.00), or Twenty Dollars (\$20.00) for individuals on Medicaid, Medicare, or SoonerCare. The methods of payment will be provided on the website.

E. A temporary license application will also be available on the Oklahoma Department of Health website. A temporary medical marijuana license will be granted to any medical marijuana license holder from other states, provided that the state has a state regulated medical marijuana program, and the applicant can prove they are a member of such. Temporary licenses will be issued for thirty (30) days. The cost for a temporary license shall be One Hundred Dollars (\$100.00) Renewal will be granted with resubmission of a new application. No additional criteria will be required.

F. Medical marijuana license applicants will submit their application to the Oklahoma State Department of Health for approval and that the applicant must be an Oklahoma state resident and shall prove residency by a valid driver's license, utility bills, or other accepted methods.

G. The Oklahoma State Department of Health shall review the medical marijuana application, approve/reject the application, and mail the applicant's approval or rejection letter (stating reasons for rejection) to the applicant within fourteen (14) days of receipt of the application. Approved applicants will be issued a medical marijuana license which will act as proof of their approved status. Applications may only be rejected based on applicant not meeting stated criteria or improper completion of the application.

H. The Oklahoma State Department of Health will only keep the following records for each approved medical license:

1. a digital photograph of the license holder;
2. the expiration date of the license;
3. the county where the card was issued; and
4. a unique 24 character identification number assigned to the license.

I. The Department of Health will make available, both on its website, and through a telephone verification system, an easy method to validate a medical license holders authenticity by the unique 24 character identifier.

J. The State Department of Health will ensure that all application records and information are sealed to protect the privacy of medical license applicants.

K. A caregiver license will be made available for qualified caregivers of a medical marijuana license holder who is homebound. The caregiver license will give the caregiver the same rights as the medical license holder. Applicants for a caregiver license will submit proof of the medical marijuana license holder's license status and homebound status, that they are the designee of the medical marijuana license holder, must submit proof that the

¶4 The original codification governed the legal possession of medical marijuana, caregiver licenses, dispensary licenses,³ licensed commercial growers/packagers,⁴ processing licenses,⁵ transportation licenses;⁶ and directed the establishment of a regulatory office under the Oklahoma State Department of Health (Health Department).⁷ It also expressly allowed counties and cities to enact medical marijuana guidelines allowing license holders to exceed the state limits regarding legal possession.⁸

¶5 The Act included a provision on discrimination towards license holders⁹ and

caregiver is age eighteen (18) or older, and must submit proof the caregiver is an Oklahoma resident. This will be the only criteria for a caregiver license.

L. All applicants must be eighteen (18) years or older. A special exception will be granted to an applicant under the age of eighteen (18), however these applications must be signed by two (2) physicians and the applicant's parent or legal guardian.

M. All applications for a medical license must be signed by an Oklahoma Board certified physician. There are no qualifying conditions. A medical marijuana license must be recommended according to the accepted standards a reasonable and prudent physician would follow when recommending or approving any medication. No physician may be unduly stigmatized or harassed for signing a medical marijuana license application.

N. Counties and cities may enact medical marijuana guidelines allowing medical marijuana license holders or caregivers to exceed the state limits set forth in subsection A of this section.

³Title 63 O.S. Supp. 2018 §421.

⁴Title 63 O.S. Supp. 2018 §422.

⁵Title 63 O.S. Supp. 2018 §423.

⁶Title 63 O.S. Supp. 2018 §424.

⁷Title 63 O.S. Supp. 2018 §420, see note 2, *supra*.

⁸Title 63 O.S. Supp. 2018 §420, see note 2, *supra*.

⁹Title 63 O.S. Supp. 2018 §425.

and stated that “no city or local municipality may unduly change or restrict zoning laws to prevent the opening of a retail marijuana establishment.”¹⁰ It did not define “retail marijuana establishment.” Cloudi Mornings argued that the statutes restricted cities from imposing regulations of activities authorized under the Act and that only the Health Department was entitled to impose any regulations.

¶6 The Health Department created regulations to govern activities under the Act. The regulations are found in the Oklahoma Administrative Code, Title 310, Oklahoma State Department of Health, Ch. 681 and were adopted August 1, 2018, and made effective on August 25, 2018.¹¹ The rules generally cover the application processes of the various licenses, renewals, inspections, inventory, audits, taxes, commercial facilities, packaging, and labeling. Nothing in the rules addressed zoning or location of establishments, but the rules did require premises to meet state and local electrical, fire, plumbing, waste and building codes.

¶7 According to Cloudi Mornings, the City of Broken Arrow met on September 18, 2018, and adopted Ordinance 3540 and 3542, as well as an Amended City of

¹⁰Title 63 O.S. Supp. 2018 §425(F) provided:

No city or local municipality may unduly change or restrict zoning laws to prevent the opening of a retail marijuana establishment.

¹¹The rules were made effective August 25, 2018, or when approved by the Governor, whichever is later. The Governor approved the rules on July 11, 2018.

Broken Arrow Manual of Fees.¹² The ordinances purport to zone and restrict marijuana operations within the City, much like any other retail establishment. They address parking, building codes, require City permits and application fees, etc.

¶8 Cloudi Mornings did not assert that it was denied any permits, required to pay a particular fee or was prohibited from locating in a chosen location within the City limits in their Petition. Nor do they allege that the ordinances conflict with Health Department regulations and rules. They did attach to the Petition, an affidavit of plaintiff, Austin Miller, who identifies himself as the Manager of Cloudi Mornings. He states that: the company intends to conduct business in the City of Broken Arrow; the ordinances and fees completely frustrate their commercial purposes; and the ordinances will cause substantial and irreparable harm to the company and other individual residents of Broken Arrow.

¶9 Cloudi Morning argues that the City exceeded its authority by addressing any of these regulation issues all together, and they sought to have the City's efforts declared null and void. They also filed an application for emergency temporary restraining order and temporary injunction along with their Petition for Declaratory Judgment. On September 28, 2018, the City objected. It argued that Oklahoma Legislature expressly acknowledged that Cities would need zoning and regulations

¹²Cloudi Mornings attached the Ordinances and the Manual of Fees to its Petition for Declaratory Judgment, but the attachments are unsigned, unfiled copies.

regarding a new industry which was once illegal, and that the Legislature included the express allowance for municipalities to enact reasonable, common sense ordinances.¹³

¶10 The trial court held a hearing on September 28, 2018. At the hearing, Cloudi Mornings argued that after medical marijuana became legal in the State of Oklahoma, they applied for their license, received it, engaged in business. Subsequently, however, the City of Broken Arrow created zoning which, if applied, would mean that Cloudi Mornings is engaged in growing in an area not properly zoned, and not in compliance with City's rules. They offered no measure of monetary damages they may have suffered, but noted that they already had plants growing and had already signed a lease.

¶11 On October 17, 2018, the trial court filed a Final Declaratory Judgment. It held that Oklahoma cities, as a matter of law, were precluded from adopting regulations, zoning overlays, fees or other restrictions to medical marijuana business activities authorized by the Act. Consequently, the City's enactment of the ordinances was not permissible and it enjoined the City from enforcing them. The City appealed and filed a motion to retain on October 31, 2018. We retained the cause on November 15, 2018, and the briefing cycle was completed on May 15, 2019, with the filing of the City's reply brief.

¹³Title 63 O.S. Supp. 2018 §425(F), see note 10, *supra*.

¶12 In the meantime, the Legislature, in the 2019 Legislative session amended portions of the Act. It enacted a new 63 O.S. Supp. 2019 §427 concerning licensure revocations. It also amended §§420 and 425 with multiple amendments. The amendments to §420 relate to record keeping and are not applicable to this cause.¹⁴ The amendments to 63 O.S. Supp. 2019 §425 however are pertinent. The Legislature added to the subsection which originally stated that “[n]o city or local municipality may unduly change or restrict zoning laws to prevent the opening of a retail marijuana establishment.” The addition states:

2. For purposes of this subsection, an undue change or restriction of municipal zoning laws means an act which entirely prevents retail marijuana establishments from operating within municipal boundaries as a matter of law. Municipalities may follow their standard planning and zoning procedures to determine if certain zones or districts would be appropriate for locating marijuana-licensed premises, medical marijuana businesses or any other premises where marijuana or its by-products are cultivated, grown, processed, stored or manufactured.

3. For purpose of this section, “retail marijuana establishment” means an entity licensed by the State Department of Health as a medical marijuana dispensary. Retail marijuana establishment does not include those other entities licensed by the Department as marijuana-licensed premises, medical marijuana businesses or other facilities where marijuana or any product containing marijuana or its by-products are cultivated, grown, processed, stored or manufactured.

¶13 Because of the legislative amendments, on June 24, 2019, we remanded the cause and ordered the trial court to enter findings of fact and conclusions of law

¹⁴Title 63 O.S. Supp. 2019 §420.

addressing: 1) whether the ordinances had unduly changed or restricted zoning law so as to prevent the opening of a retail marijuana establishment and 2) the impact of 63 O.S. Supp. 2018 §42(f) on the ordinances. We directed the parties to supplement the appellate record with the court's findings within 90 days.

¶14 On October 18, 2019, the trial court filed its Findings of Fact and Conclusions of Law.¹⁵ Regarding the facts, it found that:

- 1) Miller and Cloudi Mornings were actively engaged in the cannabis growing business within the municipality of the City of Broken Arrow;
- 2) the City ordinances zoned only "Retail Sales businesses," [a/k/a retail marijuana establishments or retail sales establishments], within the City, and such businesses were the only marijuana businesses required by the ordinances to submit an operational and business plan and apply for a City permit and licensing fee;
- 3) multiple establishments were currently and actively operating dispensaries within City limits; and
- 4) the Legislature added a subsection to 63 O.S. Supp. 2018 §425(f) which excluded locations where marijuana was grown from the definition of "retail marijuana establishment."

¶15 Regarding conclusions of law, the trial court determined that:

- 1) the plaintiff/appellees were engaged in an active cannabis growing business within the municipality of the City of Broken Arrow;
- 2) there is no specific statutory protection against undue changes or restrictions in municipal zoning as provided to a business engaged in the growing or

¹⁵On October 22, 2019, the Tulsa County Court Clerk filed an official, certified supplement to the record which included the trial court's findings.

processing of cannabis;

- 3) the ordinances did not unduly change or restrict zoning so as to prevent the opening of retail marijuana establishments; and
- 4) the statutory amendments operate as a subsequent clarification of the phrase “unduly change or restrict zoning laws” and defining the term “retail marijuana establishment.”

APPEAL DISMISSED.

¶16 The City argues that: 1) cities possess the full power of local government and may enact ordinance to protect the public peace, order, health and safety; and 2) reasonable regulations to medical marijuana businesses operating within their jurisdiction fall squarely within the City’s purview of authorized regulation. Cloudi Mornings argues that the Act only tasks the Health Department with regulating the marijuana industry and, consequently, cities are powerless to enact marijuana zoning ordinances.

¶17 Cities generally have the authority to enact zoning and regulatory ordinances.¹⁶ The voter-approved version of the Act, acknowledged such authority

¹⁶Title 11 O.S. 2011 §43-101 provides:

For the purpose of promoting health, safety, morals, or the general welfare of the community, a municipal governing body may regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes.

Nuchools v. Board of Adjustment of the City of Tulsa, 1977 OK 3, ¶11, 560 P.2d 556 [The right, power, and authority of the legislative body of cities to enact zoning ordinances arises from the authority of the Oklahoma statutes.]; See also Mid-Continent Life Insurance v. The City of Oklahoma City, 1985 OK 41 ¶9, 701 P.2d421 [Zoning is a legislative function which is due the presumptive validity of any municipal ordinances. Unless zoning decisions of a municipality

when it noted that no city or local municipality may unduly change or restrict zoning to prevent the opening of a retail marijuana establishment.¹⁷ The acknowledgment being that city zoning and regulation could occur as long as the ordinances enacted were not unduly changed or restricted in such a way that no retail marijuana establishment could open within city limits.

¶18 If there was any doubt as to the City's authority, the 63 O.S. Supp. 2019 §425 legislative amendments expressly state that:

- 1) an undue change or restriction of municipal zoning laws means an act which entirely prevents retail marijuana establishments from operating within municipal boundaries as a matter of law;
- 2) a "retail marijuana establishment" means an entity licensed by the State Department of Health as a medical marijuana dispensary but does not include other entities licensed by the Department as marijuana-licensed premises, medical marijuana businesses or other facilities where marijuana or any product containing marijuana or its by-products are cultivated, grown, processed, stored or manufactured; and
- 3) municipalities may follow their standard planning and zoning procedures to determine if certain zones or districts would be appropriate for locating marijuana-licensed premises, medical marijuana businesses or any other premises where marijuana or its by-products are cultivated, grown, processed, stored or manufactured.¹⁸

It is well settled that subsequent amendments to an act can be used to ascertain the

are found not to have a substantial relation to public health, safety, morals or general welfare or are found to constitute an unreasonable, arbitrary exercise of police power, such judgments will not be overridden by courts.].

¹⁷Title 63 O.S. Supp. 2018 §420, see note 2, *supra*.

¹⁸Title 63 O.S. Supp. 2019 §425, see also discussion page 9, *supra*.

meaning of the prior statute.¹⁹ Where the meaning of a prior statute is subject to serious doubt and has not been judicially determined, a presumption arises that a subsequent amendment was meant to clarify, as opposed to change, the prior statute.²⁰ A subsequent statute clarifying a prior statute can be used to determine the meaning of the prior statute even if the interpretation affects alleged vested rights.²¹

¶19 Clearly, the Act authorizes the City to follow standard planning and zoning procedures as to marijuana growers such as Cloudi Mornings. The Act does not even apply the “unduly change or restrict” standard to growers such as Cloudi Mornings. This is a problem for Cloudi Mornings where it was not denied any city permits, required to pay a particular city fee, or prohibited from locating in a chosen location within City limits all together. Nor is there is any indication that the City’s ordinances directly conflict with the Health Department regulations and rules.

¶20 At the trial court hearing of September 28, 2018, Cloudi Mornings admitted that if the City’s zoning applied, then they would not be in compliance with

¹⁹Quail Creek Golf v. Oklahoma Tax Commission, 1996 OK 35, ¶10, 913 P.2d 302; *See, Texas County Irrigation & Water Resources Ass’n v. Oklahoma Water Resources Board*, 1990 OK 121, ¶6, 803 P.2d 1119; *See also, Board of Education v. Morris*, 1982 OK 142, ¶9, 656 P.2d 258; Magnolia Pipe Line Co., v. Oklahoma Tax Commission, 1946 OK 113, ¶11, 167 P.2d 884.

²⁰Quail Creek Golf v. Oklahoma Tax Commission, see note 20, supra; Texas County Irrigation & Water Resources Ass’n v. Oklahoma Water Resources Board, see note 20, supra; Magnolia Pipe Line Co., v. Oklahoma Tax Commission, see note 20, supra.

²¹Quail Creek Golf v. Oklahoma Tax Commission, see note 20, supra; Texas County Irrigation & Water Resources Ass’n v. Oklahoma Water Resources Board, see note 20, supra; Magnolia Pipe Line Co., v. Oklahoma Tax Commission, see note 20, supra. *See also, Polymer Fabricating, Inc. v. Employers Worker’s Compensation Association*, 1998 OK 113, ¶15, 980 P.2d 108; Board of Education, Vici Public Schools, v. Morris, 1982 OK 142, ¶9, 688 P.2d 258.

the City's rules. They also insisted that City's ordinances and fees "completely frustrate their commercial purposes" and that ordinances will "cause substantial and irreparable financial harm to the company" and other Broken Arrow residents. Nevertheless, it appears the City was acting within its authority under the original enactment as approved by the voters. If the original enactment were unclear, the subsequent amendments certainly clarified the issue.

¶21 In short, there is no longer a case or controversy from which the trial court or this Court could declare any relief as to these particular plaintiffs. The rule does not change when a declaratory judgment is involved.²² We do not issue advisory opinions.²³ We recognize that there are exceptions for matters which are of great public importance. While this may have been a matter of great public importance when it was enacted by the voters, the Legislature's subsequent action expressly authorizes City zoning. Here, without any indication that City's ordinances have

²²Title 12 O.S. 2011 §1651 provides:

District courts may, in cases of actual controversy, determine rights, status, or other legal relations, including but not limited to a determination of the construction or validity of any foreign judgment or decree, deed, contract, trust, or other instrument or agreement or of any statute, municipal ordinance, or other governmental regulation, whether or not other relief is or could be claimed, except that no declaration shall be made concerning liability or nonliability for damages on account of alleged tortious injuries to persons or to property either before or after judgment or for compensation alleged to be due under workers' compensation laws for injuries to persons. The determination may be made either before or after there has been a breach of any legal duty or obligation, and it may be either affirmative or negative in form and effect; provided however, that a court may refuse to make a determination where the judgment, if rendered, would not terminate the controversy, or some part thereof, giving rise to the proceeding.

Knight v. Miller, 2008 OK 81, ¶¶8-13, 195 P.3d 372; Gordon v. Followell, 1964 OK 74, ¶6, 391 P.2d 242.

²³Westinghouse Elec. Corp. v. Grand River Dam Authority, 1986 OK 20, ¶21, 720 P.2d 713.

exceeded what the Legislature authorized by the Act and its subsequent amendments, there is nothing for us to decide.²⁴ Furthermore, in so far as this cause is concerned, there is no indication that the City has enforced the zoning ordinances against Cloudi Mornings. Nor is there indication that Cloudi Mornings has sought and been denied a variance.²⁵ Accordingly, we dismiss the appeal.

CONCLUSION

¶22 The root of this cause is timing. The voters approved State Question 788 and the City of Broken Arrow responded with ordinances before the Oklahoma Legislature could expand and clarify the legislation. In the meantime, Cloudi Mornings sought and obtained a license to legally grow medical marijuana. It set up shop before the City of Broken Arrow could implement State Question 788, and when it tried to implement it, Cloudi Mornings attempted to thwart the City's efforts with a

²⁴Hunsucker v. Fallin, 2017 OK 100, ¶5, 408 P.3d 599 [This Court possesses discretion to grant standing to private parties to vindicate the public interest in cases presenting issues of great public importance. This discretion is properly exercised to grant standing where there are "competing policy considerations" and "lively conflict between antagonistic demands."]; Osage Nation v. Bd. of Comm'rs, 2017 OK 34, ¶61, 394 P.3d 1224 [We have recently explained standing must be predicated on cognizable economic harm when a legislative act is challenged as unconstitutional or invalid. A person who seeks to invalidate a statute as unconstitutional must establish standing by showing that the legislation sought to be invalidated detrimentally affects his/her interest in a direct, immediate and substantial manner. Similarly, in some states, standing based upon public nuisance and municipal zoning law is based upon an allegation of injury to the plaintiff which is different in kind from that experienced by the residents in general. Standing to challenge the ordinance itself apart from the construction requires a different analysis, but also must be based upon a legally cognizable interest infringed by the challenged legislation (ordinance)]. Even the Amicus Curie applicants acknowledge in their application that "as framed the issues(s) pending before this Court does not address whether a municipality with its regulatory powers can outright ban or prohibit lawful activity approved by a vote of the citizens of the State of Oklahoma."

²⁵A comparable situation might be Knight v. Miller, 2008 OK 81, ¶11, 195 P.3d 372 wherein the injured party was merely seeking a declaration that the insurer would be obligated to pay any judgment that he might recover against the tortfeasor. The Court held that the injured party had no legally cognizable or protective interest in the controversy and would not have one unless and until he succeeded in the negligence action.

declaratory judgment.

¶23 However, the Legislature did clarify the legislation with amendments and Cloudi Mornings declaratory judgment arguments were essentially nullified by the Legislative amendments. Because the declaratory relief Cloudi Mornings sought is no longer an issue, Cloudi Mornings has yet to appeared to suffer any loss, and it appears the City was acting within its authority under both the original enactment and its amendments, we must dismiss the appeal.

APPEAL DISMISSED.

GURICH, C.J., DARBY, V.C.J., KAUGER, WINCHESTER, EDMONDSON,
COLBERT, COMBS, KANE, JJ., concur.

Murphy, Brent

From: Austin Miller <austin.m.miller@gmail.com>
Sent: Tuesday, September 1, 2020 2:59 PM
To: Murphy, Brent
Cc: Ferenc, Jill
Subject: Re: PUD 47H
Attachments: image001.jpg

CAUTION! This email originated from outside of the City of Broken Arrow network. Do not click links or open attachments unless you recognize the sender and know the content is safe. code: rgjad

Good Afternoon

I have already done so this time! LoL
They have no issues with it at all!
Thank you!

On Tue, Sep 1, 2020, 2:35 PM Murphy, Brent <BMurphy@brokenarrowok.gov> wrote:

Good afternoon Austin. We are in receipt of your application for PUD 47H. When PUD 47G was submitted earlier this year, we had recommended that they contact the 6100 Center property association and see if they had any concerns with their request for a major amendment to allow the growing of medical marijuana. We would also make the same recommendation to you. Let us know what you find out, and we will share that with the Planning Commission. Also, let me know if you have any questions.

Brent Murphy, AICP

Senior Planner

City of Broken Arrow

Phone: 918-259-2400 EXT. 5388

Fax: 918-258-4998

Email: bmurphy@brokenarrowok.gov





City of Broken Arrow

Request for Action

File #: 20-1249, **Version:** 1

Broken Arrow Planning Commission
10-08-2020

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

Public hearing, consideration, and possible action regarding PUD-94V (Planned Unit Development) and BAZ-2066, Aspen Circle, 6.90 acres, PUD-94/CG to PUD-94V/CH and IL, located north of the Broken Arrow Expressway, south of Albany Drive, and east of Aspen Avenue (145th E. Avenue)

Background:

Applicant: Eric G. Sack, Sack and Associates

Owner: Tahoe II Properties, LLC

Developer: Tahoe II Properties, LLC

Engineer: Sack and Associates

Location: North of the Broken Arrow Expressway, south of Albany Drive, and east of Aspen Avenue (145th E. Avenue)

Size of Tract 6.90 acres

Present Zoning: PUD-94/CG

Proposed Zoning: PUD-94V/CH and IL

Comp Plan: Level 6

Planned Unit Development (PUD)-94V involves a 6.90-acre parcel located north of the Broken Arrow Expressway, south of Albany Drive, and east of Aspen Avenue. Applicant is requesting a major amendment to PUD-94 and with BAZ-2066 is asking that the underlying zoning be changed from CG (Commercial General) to CH (Commercial Heavy) and IL (Industrial Light). Some of the potential uses being contemplated on the property include vehicle sales and rental, vehicle service and major repair (collision center), and a convenience store.

PUD-94V divides the 6.90 acres into two development areas, A and B. Development Area A, which contains 2.97 acres adjacent to Aspen Avenue, the Broken Arrow Expressway off-ramp, and Albany Drive, will be developed in accordance with the use and development regulations of the CH district except as modified by the PUD. While a convenience store is being considered conceptually, all uses allowed in the CH district, except sexually oriented businesses, are allowed in Development Area A. In addition, vehicle sales and rental is recognized as a permitted use.

Development Area B, which contains 3.93 acres next to Albany Drive and the Broken Arrow Expressway off-ramp, will be developed in accordance with the use and development regulations of the CH and IL district,

except as modified by the PUD. The only permitted uses are limited to:

- Restaurant, drive-in
- Restaurant, drive-thru
- Convenience store with gas sales
- Alcoholic beverages, retail store
- Vehicle sales and rentals
- Vehicle services and repair, major
- Vehicle services and repair, minor

An automobile collision center is illustrated as part of the conceptual site plan.

PUD 94 HISTORY ON THE PROPERTY

PUD 94, along with BAZ 1236, were initially approved by the City Council on November 16, 1995, subject to the property being platted. PUD-94, known as “Battle Creek” was proposed as a mixed use development consisting of single family detached residences, multifamily residential, office and retail uses along with an 18-hole golf course, all located on 786.5 acres. The property associated with PUD 94V was designated as “Commercial Office” in PUD 94, for retail commercial, office, hotel, and restaurant use. On November 16, 2010, the City Council approved PUD 94-O, a major amendment to PUD-94, subject to the property being platted. In PUD 94-O, the property associated with PUD 94V was designated as “Commercial” and permitted uses were identified as those permitted within a C-2 District as existing on January 31, 2008. PUD 94-O was approved subject to platting. The property has not been platted, therefore, the zoning property on the property associated with PUD-94V and BAZ-2066 remains PUD-94/CG. On September 17, 2013, the City Council approved PUD-94S, a major amendment to PUD-94, to allow a new automobile dealership to be constructed on 10.5 acres located on the north side of Albany Drive, north of PUD-94V.

PUD-94V

A summary comparison between what is required by the Zoning Ordinance and what is being proposed with PUD-94V is provided below.

SUMMARY OF DEVIATION FROM THE BROKEN ARROW ZONING ORDINANCE FOR DEVELOPMENT AREA A

Item	Broken Arrow Zoning Ordinance	PUD-94V Request
Maximum Building Height	No requirement	2 stories or 35 feet
Landscaping	One tree per 50 feet of street and highway frontage	Along the Broken Arrow Expressway and Aspen Avenue, one tree per 25 feet of highway and street frontage. Along West Albany Drive, one tree per 30 feet of frontage. All trees must be medium or large trees except where there are conflicts with overhead power lines.

Access	Access on arterial streets must be 250 feet apart, centerline to centerline on the same side of the street, and 200 feet, centerline to centerline, on the opposite side of the street. On collector streets, such as Albany Drive, access points must align or be 150 feet apart, centerline to centerline on both sides of the street.	No access allowed to Aspen Avenue. If the western most access point on the north side of Albany Drive remains, only one access point to Albany Drive is allowed and it must align with the access point on the north side. If the western most drive on the north side is permanently closed and physically removed, two points of access are allowed to Albany Drive. The space between the two drives is reduced from 150 feet to 120 feet, centerline to centerline.
Sidewalks	5-foot wide on arterial streets and 4-foot wide on collector streets.	Sidewalks will be 5-foot wide along both Aspen Avenue and Albany Drive.
Freestanding Signs	Up to 50 feet in height and 500 square feet for a sign with multiple users.	Only one pylon sign is allowed for the entire PUD and it is limited to 25 feet in height. All other freestanding signs must meet the requirements of Section 5.7.D, which limits signs to 10 feet in height and 100 square feet. The base of all freestanding signs will be of substantially the same material as the exterior of the principal building on the lot.

SUMMARY OF DEVIATION FROM THE BROKEN ARROW ZONING ORDINANCE FOR
DEVELOPMENT AREA B

Item	Broken Arrow Zoning Ordinance	PUD-94VRequest
Permitted uses	As allowed in the CH and IL districts.	The only permitted uses are: • Restaurant, drive-in • Restaurant, drive-thru • Convenience store with gas sales • Alcoholic beverages, retail store • Vehicle sales and rental • Vehicle services and repair, minor • Vehicle services and repair, major
Maximum Building Height	No requirement	2 stories or 35 feet

Exterior building materials	Masonry along street frontages	Blue and white metal wall panels allowed on the vehicle service and repair - major building.
Minimum Building Setback	50 feet from all street frontages	50 feet from all street frontages. However, overhead doors used for service and repair and oriented towards a street shall setback at least 150 feet.
Screening Fence	Only required adjacent to residential and around dumpsters.	In addition to the Zoning Ordinance requirements, a six-foot high masonry and wood fence will be installed around the area used for storing damaged vehicles.
Landscaping	One tree per 50 feet of street and highway frontage	Along the Broken Arrow Expressway and Aspen Avenue, one tree per 25 feet of highway and street frontage. At least 90 percent of the trees shall be evergreen and must be medium to large trees except where there are conflicts with overhead power lines. Along West Albany Drive, one tree per 30 feet of frontage. At least 75 percent of the trees shall be evergreen and must be large trees except where there are conflicts with overhead power lines.
Access	Access on collector streets, such as Albany Drive, access points must align on both sides of the street, or be 150 feet apart, centerline to centerline.	Access will meet the requirements of the Zoning Ordinance.
Sidewalks	4-feet wide on collector streets.	Sidewalks will be 5-feet wide along Albany Drive.

Freestanding Signs	Up to 50 feet in height and 500 square feet for a sign with multiple users.	Only one pylon sign is allowed for the entire PUD and it is limited to 25 feet in height. All other freestanding signs must meet the requirements of Section 5.7.D, which limits signs to 10 feet in height and 100 square feet. The base of all freestanding signs will be of substantially the same material as the exterior of the principal building on the lot.
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SURROUNDING LAND USES/ZONING/COMPREHENSIVE PLAN

The surrounding properties contain the following uses, along with the following development guide and zoning designations:

Location	Development Guide	Zoning	Land Use
North	Level 6	PUD-94S/CH	Automobile sales and service
East	Levels 6 and 3	PUD-94S-1/CH and PUD-94/CG	Automobile sales and service, undeveloped, and apartments
South	Broken Arrow Expressway	PUD-94/CG	Broken Arrow Expressway off ramp
West	Level 6	CH/SP 228	Automobile sales and service and undeveloped

The property associated with PUD-94V and BAZ-2066 is designated as Level 6 in the Comprehensive Plan. CH (Commercial Heavy) zoning is in conformance with the Comprehensive Plan in Level 6. In addition, IL zoning is in conformance with the Comprehensive Plan in Level 6 when done in association with a PUD.

According to Section 6.4 of the Zoning Ordinance, the PUD provisions are established for one (1) or more of the following purposes:

1. To permit and encourage innovative land development while maintaining appropriate limitation on the character and intensity of use and assuring compatibility with adjoining and proximate properties.
2. To permit greater flexibility within the development to best utilize the physical features of the particular site in exchange for greater public benefits than would otherwise be achieved through development under this Ordinance.
3. To encourage the provision and preservation of meaningful open space.
4. To encourage integrated and unified design and function of the various uses comprising the

planned unit development.

5. To encourage a more productive use of land consistent with the public objectives and standards of accessibility, safety, infra structure and land use compatibility.

In Staff's opinion, PUD-94V satisfies items 1, 2, and 5 of Section 6.4.A of the Zoning Ordinance. (1) The uses permitted, especially in Development Area B are limited, assuring compatibly with adjoining and proximate properties. In addition, building height is limited to 2 stories or 35 feet. (2) Twice as much landscaping will be provided along the Broken Arrow Expressway than what is required by the Zoning Ordinance, thereby providing greater public benefits than would be achieved with just the Zoning Ordinance. No access is allowed to Aspen Avenue, but there is flexibility to allow the spacing to be reduced along Albany Drive if other conditions are met. (5) Aspen Avenue and the Broken Arrow Expressway off-ramp is a major entry way into the City of Broken Arrow. With PUD-94V, twice as much landscaping is provided along the Broken Arrow Expressway and Aspen Avenue than what is required by the Zoning Ordinance. Freestanding signs are limited in height and size. The proposed land uses are compatible with the other surrounding land uses.

According to FEMA maps, none of the property is located in a 100-year floodplain area. Water and sanitary sewer service will be provided by the City of Broken Arrow.

Attachments: Case map
Aerial photo
Comprehensive Plan Future Development Guide
PUD-94V design statement

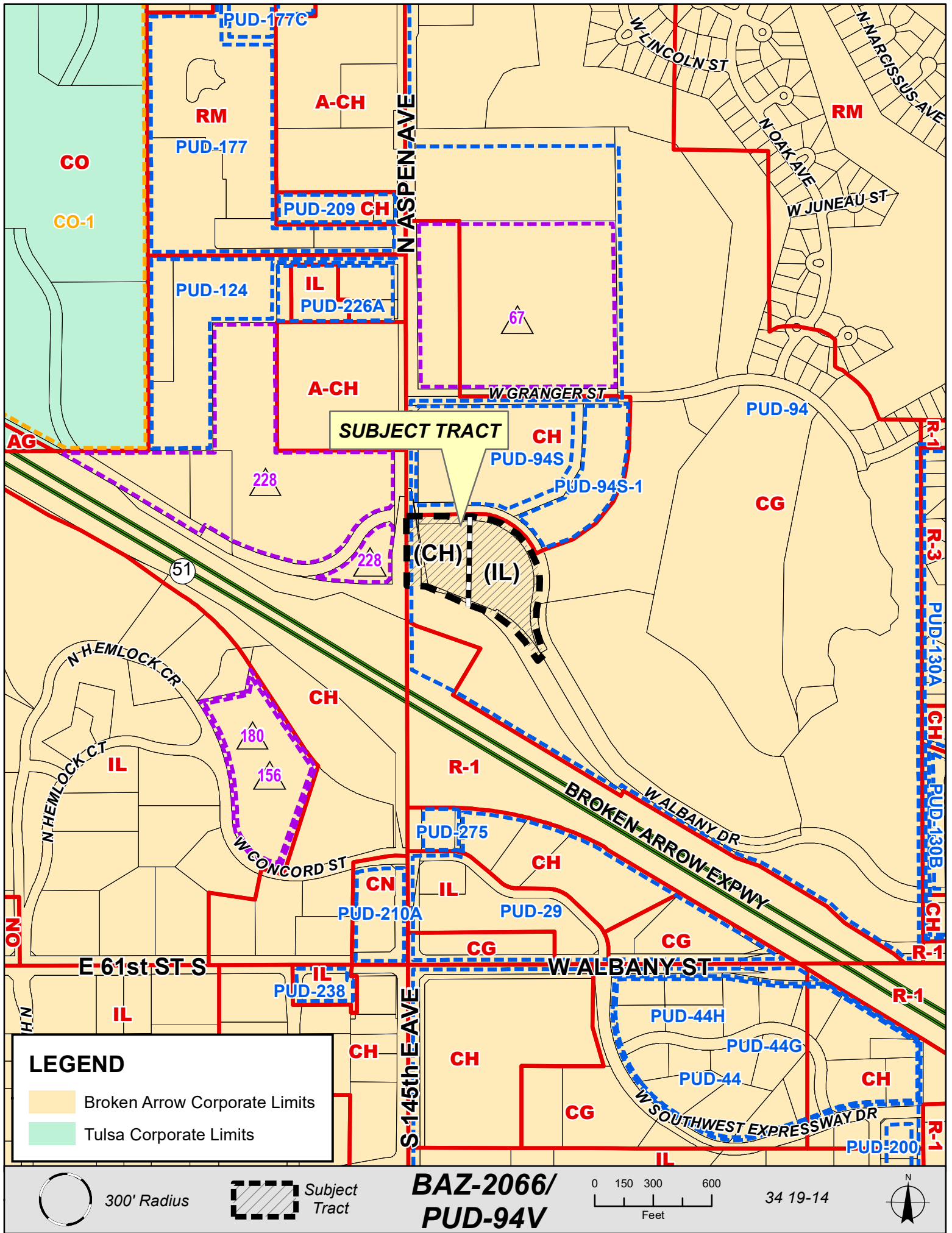
Recommendation:

Based upon the Comprehensive Plan, the PUD submitted with BAZ-2066 and the associated limitations on permitted land uses and vehicular access, the location of the property, features (i.e. landscaping, screening, and sign controls) provided in the PUD, and the surrounding land uses, Staff recommends that PUD-94V and BAZ-2066 be approved as presented, subject to the property being platted.

Reviewed by: Jill Ferenc

Approved by: Larry R. Curtis

BDM





Note: Graphic overlays may
not precisely align with physical
features on the ground.
Aerial Photo Date February 2018



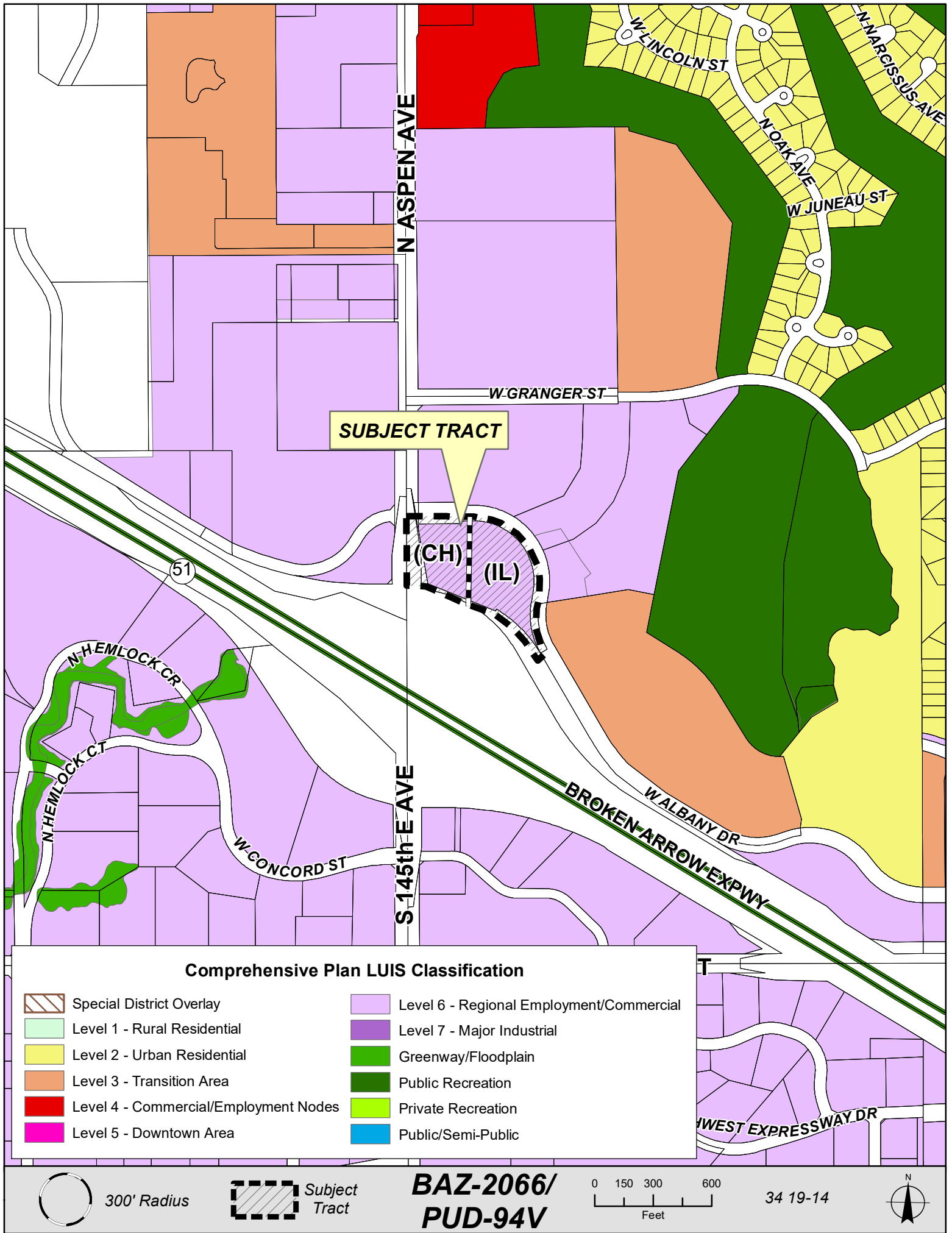
Subject
Tract

**BAZ-2066/
PUD-94V**

0 150 300 600
Feet

34 19-14





Aspen Circle

City of Broken Arrow, Tulsa County, Oklahoma
PUD Major Amendment
Planned Unit Development Number 94V
September 2020

Prepared For:

Tahoe II Properties, LLC
9809 South Memorial Drive
Tulsa, OK 74113



Prepared By:



SACK AND ASSOCIATES, INC.

3530 East 31st Street South, Suite A, Tulsa, Oklahoma 74135-1519
Ph: 918.592.4111 Fax: 918.592.4229 E-mail: sai@sackandassociates.com
CA Number 1783 (PE/LS)

BATTLE CREEK
NORTHEAST CORNER OF THE
BROKEN ARROW EXPRESSWAY AND ASPEN AVENUE

ASPEN CIRCLE PUD-94V

Major Amendment of PUD-94O

September 2020

RECEIVED
September 21, 2020
BROKEN ARROW
COMMUNITY DEVELOPMENT

LIST OF EXHIBITS

- A.....Illustration Concept Plan
- B.....Proposed Zoning and Development Areas
- C.....Topography, Floodplain and Existing Vegetation Map
- D.....Adjacent Land Use and Zoning
- E.....Circulation and Access Plan
- F.....Landscape and Open Space Concept Plan
- G.....Existing and Proposed Utilities Plan
- H.....Aerial Photograph
- I Screening Fence for Collision Center



DEVELOPMENT CONCEPT

The subject property comprises approximately 6.9 acres (gross) which is South of the Jim Norton Chevrolet Dealership on Lot 1, Block 1, “Ronda Norton Center”, located at the Northeast corner of North Aspen Avenue (South 145th East Avenue) and the Broken Arrow Expressway. The 6.9 acre tract lies south of West Albany Drive. The possible uses are an automotive collision center, convenience store with fuel sales, vehicle sales and rental, and other restricted uses permitted in the CH-Commercial Heavy district. The Aspen Circle PUD will require rezoning of the CG zoning to CH and IL zoning.

This PUD is a major amendment to a portion of PUD-94O that was approved by the Broken Arrow City Council on November 16, 2010. The development standards of this PUD are similar to those approved with PUD-94S, with the addition of the Highway Design Overlay (HDO) district standards added since the 2010 approval. The remainder of PUD-94O, and all of PUD-94S, remain unchanged and are not part of this application.

With the filing of the application for the major amendment to PUD-94O, applications for rezoning Development Area A from CG-Commercial General to CH-Commercial Heavy and Development Area B from CG-Commercial General to IL-Industrial Light will be filed to run concurrently with the PUD application.

DEVELOPMENT STANDARDS

Development Area A shall be developed in accordance with the City of Broken Arrow Zoning Ordinance and the use and development regulations of the CH-Commercial Heavy district, except as modified herein. Vehicle sales and rental shall be recognized as a permitted use and not require a Specific Use Permit. Sexually oriented businesses, however, shall not be allowed.

Development Area B shall be developed in accordance with the City of Broken Arrow Zoning Ordinance and the use and development regulations of the CH-Commercial Heavy and IL-Industrial Light districts, except as modified herein. It is recognized a vehicle service and major repair facility is proposed to be located in Development Area B.

The Subject Property is located within the City of Broken Arrow Highway Design Overlay (HDO) district. The HDO standards are intended to ensure that development along designated highways within Broken Arrow present an attractive image of the community to city residents and highway drivers, thus contributing to the overall quality of life and economic development in the city.



DEVELOPMENT STANDARDS

Development Area A



HIGHWAY DESIGN OVERLAY (HDO) DESIGN STANDARDS

Building design orientation, wall articulation, entrances, and fencing shall meet the HDO standards and multiple buildings in commercial centers shall employ a consistent architectural style or theme, be constructed of similar materials, and feature similar colors.

GROSS LAND AREA 129,415 SF / 2.9710 AC

NET LAND AREA* 87,120 SF / 2.0000 AC

*The net land area is conceptual and may be modified pursuant to the subdivision platting process.

PERMITTED USES

As allowed in the CH-Commercial Heavy district except vehicle sales and rental shall be recognized as a permitted use. Sexually oriented businesses, however, shall not be allowed.

MAXIMUM FLOOR AREA RATIO Not Applicable

MAXIMUM BUILDING HEIGHT 2 Stories
(35 feet)

BUILDING MATERIALS

Building design will be in accordance with the Highway Design Overlay district standards in Section 5.8.I.4. Any poles used to support canopies associated with convenience stores shall be wrapped in brick.

MINIMUM BUILDING SETBACK

From each boundary fronting a public street, including the Broken Arrow Expressway off ramp, the minimum building setback from the right-of-way shall be fifty (50) feet.

From interior boundaries, the minimum building setback is zero (0) feet, provided that building code requirements are met.

MINIMUM LANDSCAPING PERCENTAGE 10% of net lot

MINIMUM LANDSCAPING EDGE

A landscape edge of at least 10 feet in width shall be provided adjacent to all highway and public street frontages.

MINIMUM SCREENING Not applicable

MINIMUM OFF-STREET PARKING

As required for the
applicable use within the
CH District

OTHER BULK AND AREA REQUIREMENTS

As required for the
applicable use within the
CH District

LANDSCAPING

Landscaping shall meet the requirements of the Broken Arrow Zoning Ordinance (the “Zoning Ordinance”) except as hereinafter modified. In addition to the requirements of the Zoning Ordinance, the following landscaping standards shall be applicable:

In addition to required trees, shrubs shall be provided as set forth within Section 5.2 of the Zoning Ordinance, provided however, shrubs may be evenly spaced or grouped.

Broken Arrow Expressway off ramp and North Aspen Avenue: Not less than one tree shall be planted for each 25 feet of highway and public street frontage. All trees shall be medium to large except where there are conflicts with overhead power lines. The width of the landscape edge shall be as depicted on Exhibit F.

West Albany Drive: Not less than one tree shall be planted for each 30 feet of street frontage. All trees shall be medium to large except where there are conflicts with overhead power lines. The width of the landscape edge shall be as depicted on Exhibit F.

All landscaping within this PUD shall be maintained in accordance with the requirements of Section 5.2 of the Zoning Ordinance. Any landscaping material that fails shall be replaced in accordance with the Zoning Ordinance.

LIGHTING

Exterior lighting shall be in accordance with Section 5.6 of the Zoning Ordinance.

ACCESS AND CIRCULATION

Principal access is derived from West Albany Drive. Direct access to Aspen Avenue (South 145th East Avenue) and to the Broken Arrow Expressway shall be prohibited. All access points on West Albany Drive shall align with any access points on the north side of the street and shall be spaced at least 150 feet apart, centerline to centerline, on both sides of the street, except as follow:

If the westernmost drive serving the Jim Norton Chevrolet dealership remains as it exists in September 2020, only one access point shall be permitted on West Albany Drive from Development Area A, and it shall align with said westernmost drive;



If the westernmost drive serving the Jim Norton Chevrolet dealership is permanently closed and physically removed, two access points shall be permitted on West Albany Drive from Development Area A as depicted on Exhibit E. The centerline of the western access point shall be 150 feet from the existing east curb line of Aspen Avenue, and the two drives serving Development Area A shall be separated by 120 feet, centerline to centerline.

Sidewalks, not less than 5 feet in width, shall be constructed along Aspen Avenue (South 145th East Avenue) and West Albany Drive by the developer in accordance with the City Subdivision Regulations.

SIGNAGE

All freestanding signs within this PUD shall be installed in accordance with Section 5.7.D of the Broken Arrow Zoning Ordinance except as follows:

Only one pylon sign shall be allowed for the overall PUD, and it shall be limited to 25 feet in height. A separate application for a Specific Use Permit is not required.

All freestanding signs shall have a monument type base of substantially the same material as the exterior of the principal building on the lot.

Directional and Wayfinding Signs

Directional and wayfinding signs are allowed and shall not be considered as a freestanding sign as long as the sign is less than 25 square feet in size and less than 5 feet in height.

Wall Signs

Wall signs shall be installed in accordance with Section 5.7 of the Zoning Ordinance and the Highway Design Overlay district, except as hereinafter modified.

FENCING

The use of chain link, barbed, or razor wire shall be prohibited.

UTILITIES

Utilities are at the site or accessible by customary extension. The drainage system will be designed in accordance with the City of Broken Arrow standard specifications.

SITE PLAN REVIEW

Development areas may be developed in phases and no building permit shall issue until a detailed site plan (including landscaping) of the proposed improvements has been



submitted to the City and approved as being consistent with the development concept and the development standards. No certificate of occupancy shall be issued for a building until the landscaping of the applicable phase of development has been installed in accordance with a landscaping plan and phasing schedule submitted to and approved by the City.

PLATTING REQUIREMENT

Development areas may be developed in phases, and no building permit shall be issued until the development phase for which a permit is sought has been included within a subdivision plat submitted to and reviewed by the Broken Arrow Planning Commission and approved by the City Council and duly filed of record. The required subdivision plat shall include covenants of record implementing the development standards of the approved planned unit development and the City shall be a beneficiary thereof. Nothing above set forth shall preclude the exercise of the authority of the City to issue a building permit upon site plan approval, which may include conditions such as a requirement that the applicable phase shall be platted prior to the issuance of an occupancy permit.



DEVELOPMENT STANDARDS

Development Area B

HIGHWAY DESIGN OVERLAY (HDO) DESIGN STANDARDS

Building design orientation, wall articulation, entrances, and fencing shall meet the HDO standards and multiple buildings in commercial centers shall employ a consistent architectural style or theme, be constructed of similar materials, and feature similar colors.

GROSS LAND AREA 171,406 SF / 3.9349 AC

NET LAND AREA* 134,989 SF / 3.0989 AC

*The net land area is conceptual and may be modified pursuant to the subdivision platting process.

PERMITTED USES

The only permitted uses in Development Area B are as follows:

- Restaurant, drive-in
- Restaurant, drive-thru
- Convenience store with gas sales
- Alcoholic beverages, retail store
- Vehicle sales and rental
- Vehicle services and repair, major
- Vehicle services and repair, minor



MAXIMUM FLOOR AREA RATIO Not Applicable

MAXIMUM BUILDING HEIGHT 2 Stories
(35 feet)

BUILDING MATERIALS

Building design will be in accordance with the Highway Design Overlay district standards in Section 5.8.I.4.

Blue and white metal wall panels will be used on the vehicle service and repair – major use Collision Center building consistent with the other corporate branded Jim Norton Chevrolet Buildings within PUD-94S located north of West Albany Drive.

MINIMUM BUILDING SETBACK

From each boundary fronting a public street, including the Broken Arrow Expressway off ramp, the minimum building setback from the right-of-way shall be fifty (50) feet,

provided however; overhead doors used for service and repair and oriented toward a street shall have a minimum setback of 150 feet.

From interior boundaries, the minimum building setback is 0 feet, provided that building code requirements are met.

MINIMUM LANDSCAPING PERCENTAGE 10% of net lot

MINIMUM LANDSCAPING EDGE

A landscape edge of at least 10 feet in width shall be provided adjacent to all highway and public street frontages.

MINIMUM SCREENING

To screen vehicles awaiting repairs, a six foot high masonry and wood screening fence as depicted on Exhibit I, along with trees as set forth below, shall be installed around the area used for storing damaged vehicles. The use of chain link, barbed wire, or razor wire shall be prohibited.

MINIMUM OFF-STREET PARKING As required for the applicable use

OTHER BULK AND AREA REQUIREMENTS As required for the applicable use within the CH and IL Districts

LANDSCAPING

Landscaping shall meet the requirements of the Broken Arrow Zoning Ordinance (the “Zoning Ordinance”) except as hereinafter modified. In addition to the requirements of the Zoning Ordinance, the following landscaping standards shall be applicable:

In addition to required trees, shrubs shall be provided as set forth within Section 5.2 of the Zoning Ordinance, provided however, shrubs may be evenly spaced or grouped.

Broken Arrow Expressway off ramp: Not less than one tree shall be planted for each 25 feet of highway frontage. No less than 90% of the required trees along the frontage shall be evergreen. The majority of required trees shall be planted along the south side of the collision center as depicted on Exhibit F to screen damaged vehicles. All trees shall be medium to large except where there are conflicts with overhead power lines. The width of the landscape edge shall be as depicted on Exhibit F.

West Albany Drive: Not less than one tree shall be planted for each 30 feet of street frontage. No less than 75% of the required trees along the frontage shall be evergreen. All trees shall be medium to large except where there are conflicts with overhead power lines. The width of the landscape edge shall be as depicted on Exhibit F.



All landscaping within this PUD shall be maintained in accordance with the requirements of Section 5.2 of the Zoning Ordinance. Any landscaping material that fails shall be replaced in accordance with the Zoning Ordinance.

LIGHTING

Exterior lighting shall be in accordance with Section 5.6 of the Zoning Ordinance.

ACCESS AND CIRCULATION

Principal access is derived from West Albany Drive. Direct access to the Broken Arrow Expressway shall be prohibited. All access points on West Albany Drive shall align with any access points on the north side of the street and shall be spaced at least 150 feet apart, centerline to centerline, on both sides of the street.

Sidewalks, not less than 5 feet in width, shall be constructed along West Albany Drive by the developer in accordance with the City Subdivision Regulations.

SIGNAGE

All freestanding signs within this PUD shall be installed in accordance with Section 5.7.D of the Broken Arrow Zoning Ordinance except as follows:

Only one pylon sign shall be allowed for the overall PUD, and it shall be limited to 25 feet in height. A separate application for a Specific Use Permit is not required.

All freestanding signs shall have a monument type base of substantially the same material as the exterior of the principal building on the lot.

Directional and Wayfinding Signs

Directional and wayfinding signs are allowed and shall not be considered as a freestanding sign as long as the sign is less than 25 square feet in size and less than 5 feet in height.

Wall Signs

Wall signs shall be installed in accordance with Section 5.7 of the Zoning Ordinance and the Highway Design Overlay district, except as hereinafter modified.

OPERATIONAL LIMITATIONS

All damaged vehicles awaiting repairs shall be parked or stored on surfaces paved with asphalt or concrete.

UTILITIES



Utilities are at the site or accessible by customary extension. The drainage system will be designed in accordance with the City of Broken Arrow standard specifications.

SITE PLAN REVIEW

Development areas may be developed in phases and no building permit shall issue until a detailed site plan (including landscaping) of the proposed improvements has been submitted to the City and approved as being consistent with the development concept and the development standards. No certificate of occupancy shall be issued for a building until the landscaping of the applicable phase of development has been installed in accordance with a landscaping plan and phasing schedule submitted to and approved by the City.

PLATTING REQUIREMENT

Development areas may be developed in phases, and no building permit shall be issued until the development phase for which a permit is sought has been included within a subdivision plat submitted to and approved by the Broken Arrow Planning Commission and the City Council and duly filed of record. The required subdivision plat shall include covenants of record implementing the development standards of the approved planned unit development and the City shall be a beneficiary thereof. Nothing above set forth shall preclude the exercise of the authority of the City to issue a building permit upon site plan approval, which may include conditions such as a requirement that the applicable phase shall be platted prior to the issuance of an occupancy permit.



LEGAL DESCRIPTION
(GROSS AREA)

A TRACT OF LAND THAT IS PART OF THE SOUTHWEST QUARTER (SW/4) OF SECTION THIRTY-FOUR (34), TOWNSHIP NINETEEN (19) NORTH, RANGE FOURTEEN (14) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, SAID TRACT OF LAND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SECTION 34; THENCE SOUTH 00°00'00" WEST ALONG THE WESTERLY LINE OF SECTION 34 FOR 2960.94 FEET TO A POINT ON THE WESTERLY EXTENSION OF THE RIGHT-OF-WAY CENTERLINE OF WEST ALBANY DRIVE SOUTH, SAID POINT ALSO BEING THE POINT OF BEGINNING OF SAID TRACT OF LAND; THENCE ALONG SAID RIGHT-OF-WAY CENTERLINE OF WEST ALBANY DRIVE SOUTH FOR THE FOLLOWING FIVE (5) DESCRIBED COURSES: THENCE SOUTH 90°00'00" EAST FOR 341.63 FEET TO A POINT OF CURVE; THENCE SOUTHEASTERLY AND SOUTHERLY ALONG A CURVE TO THE RIGHT WITH A CENTRAL ANGLE OF 100°21'48", A RADIUS OF 350.00 FEET, A CHORD BEARING OF SOUTH 39°49'06" EAST, A CHORD LENGTH OF 537.66 FEET, FOR AN ARC LENGTH OF 613.08 FEET; THENCE SOUTH 10°21'48" WEST FOR 50.00 FEET; THENCE SOUTHERLY AND SOUTHEASTERLY ALONG A CURVE TO THE LEFT WITH A CENTRAL ANGLE OF 40°20'59", A RADIUS OF 350.00 FEET, A CHORD BEARING OF SOUTH 09°48'41" EAST, A CHORD LENGTH OF 241.42 FEET, FOR AN ARC LENGTH OF 246.48 FEET; THENCE SOUTH 29°59'11" EAST FOR 9.70 FEET; THENCE SOUTH 60°00'49" WEST FOR 40.00 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF THE BROKEN ARROW EXPRESSWAY; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE AND NORTHWESTERLY ALONG A CURVE TO THE LEFT, WITH A CENTRAL ANGLE OF 28°38'25", A RADIUS OF 662.96 FEET, A CHORD BEARING OF NORTH 44°18'24" WEST, A CHORD LENGTH OF 327.95 FEET, FOR AN ARC LENGTH OF 331.39 FEET; THENCE SOUTH 31°22'24" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 10.00 FEET; THENCE NORTH 68°02'57" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 374.62 FEET; THENCE NORTH 90°00'00" WEST FOR 106.53 FEET TO A POINT ON THE WESTERLY LINE OF SECTION 34; THENCE NORTH 00°00'00" EAST ALONG SAID WESTERLY LINE FOR 362.24 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND.



LEGAL DESCRIPTION
(GROSS DEVELOPMENT AREA A)

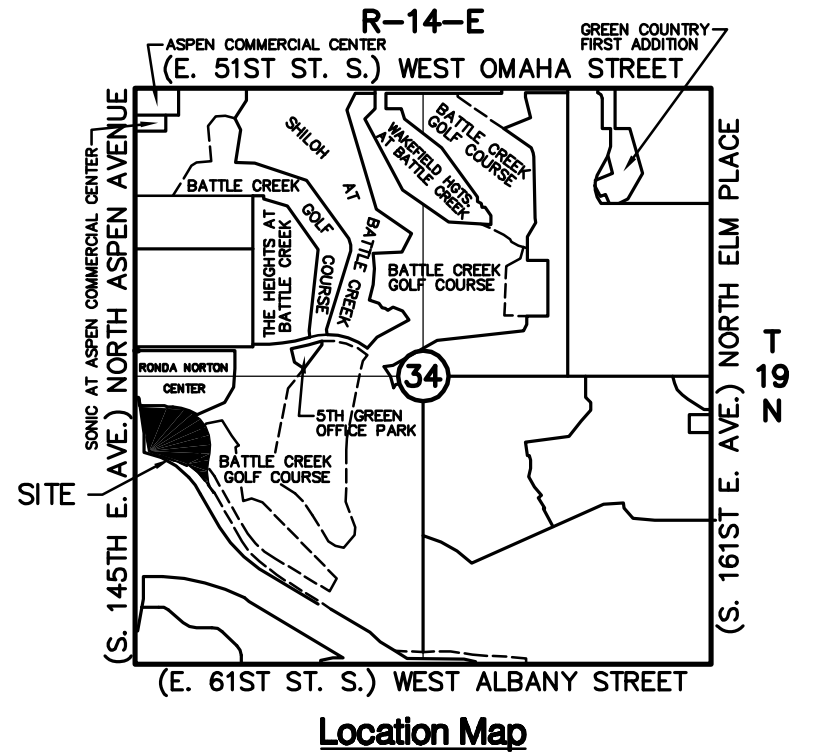
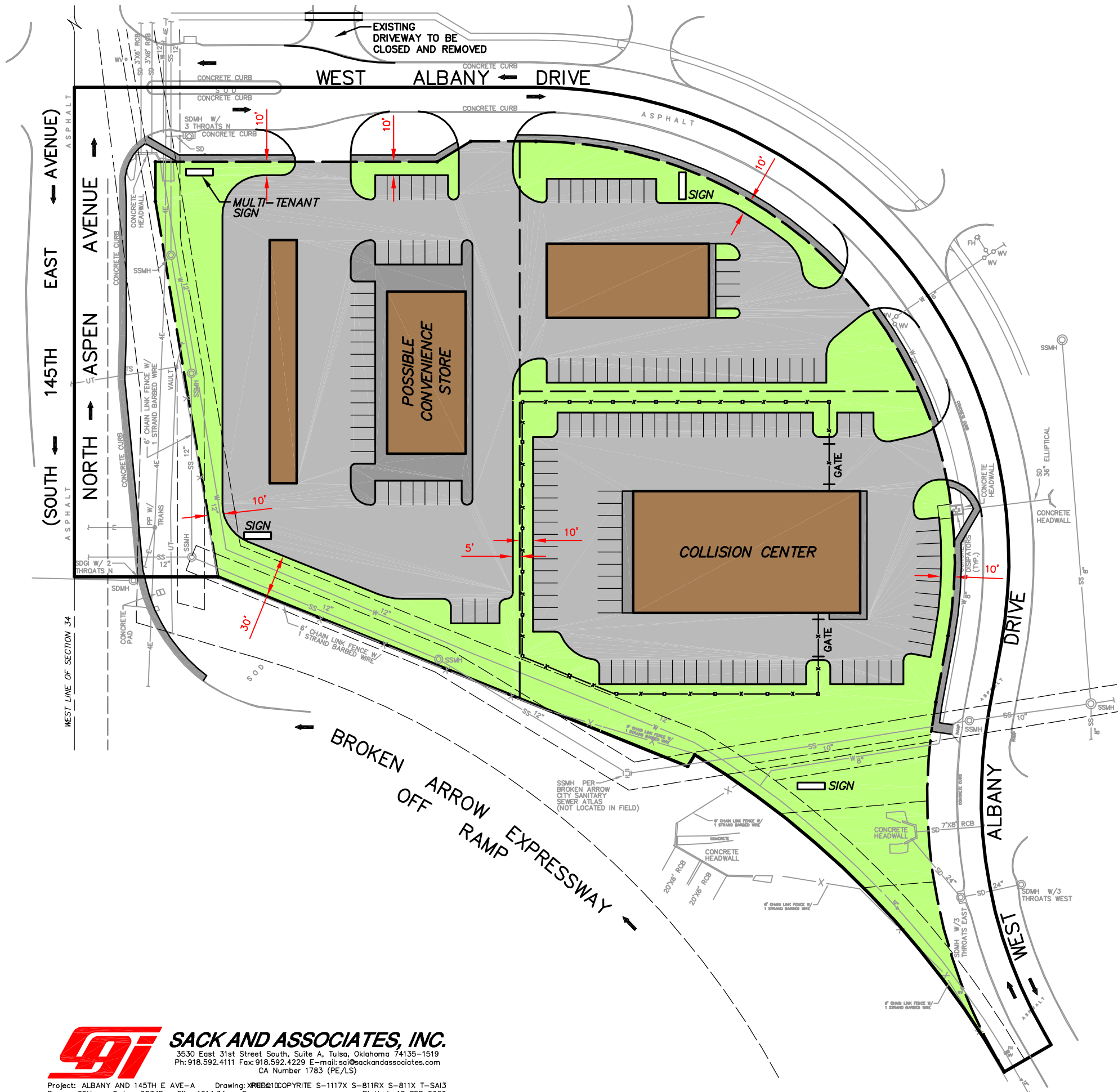
A TRACT OF LAND THAT IS PART OF THE SOUTHWEST QUARTER (SW/4) OF SECTION THIRTY-FOUR (34), TOWNSHIP NINETEEN (19) NORTH, RANGE FOURTEEN (14) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, SAID TRACT OF LAND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SECTION 34; THENCE SOUTH 00°00'00" WEST ALONG THE WESTERLY LINE OF SECTION 34 FOR 2960.94 FEET TO A POINT ON THE WESTERLY EXTENSION OF THE RIGHT-OF-WAY CENTERLINE OF WEST ALBANY DRIVE SOUTH, SAID POINT ALSO BEING THE POINT OF BEGINNING OF SAID TRACT OF LAND; THENCE SOUTH 90°00'00" EAST ALONG SAID RIGHT-OF-WAY CENTERLINE OF WEST ALBANY DRIVE SOUTH FOR 329.58 FEET; THENCE SOUTH 00°00'00" WEST AND PARALLEL WITH THE WESTERLY LINE OF SECTION 34 FOR 452.14 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF THE BROKEN ARROW EXPRESSWAY; THENCE NORTH 68°02'57" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 240.49 FEET; THENCE NORTH 90°00'00" WEST FOR 106.53 FEET TO A POINT ON THE WESTERLY LINE OF SECTION 34; THENCE NORTH 00°00'00" EAST ALONG SAID WESTERLY LINE FOR 362.24 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND.



LEGAL DESCRIPTION
(GROSS DEVELOPMENT AREA B)

A TRACT OF LAND THAT IS PART OF THE SOUTHWEST QUARTER (SW/4) OF SECTION THIRTY-FOUR (34), TOWNSHIP NINETEEN (19) NORTH, RANGE FOURTEEN (14) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, SAID TRACT OF LAND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SECTION 34; THENCE SOUTH 00°00'00" WEST ALONG THE WESTERLY LINE OF SECTION 34 FOR 2960.94 FEET TO A POINT ON THE WESTERLY EXTENSION OF THE RIGHT-OF-WAY CENTERLINE OF WEST ALBANY DRIVE SOUTH; THENCE SOUTH 90°00'00" EAST ALONG SAID RIGHT-OF-WAY CENTERLINE OF WEST ALBANY STREET SOUTH FOR 329.58 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND; THENCE ALONG SAID RIGHT-OF-WAY CENTERLINE OF WEST ALBANY DRIVE SOUTH FOR THE FOLLOWING FIVE (5) DESCRIBED COURSES: THENCE CONTINUING SOUTH 90°00'00" EAST FOR 12.05 FEET TO A POINT OF CURVE; THENCE SOUTHEASTERLY AND SOUTHERLY ALONG A CURVE TO THE RIGHT WITH A CENTRAL ANGLE OF 100°21'48", A RADIUS OF 350.00 FEET, A CHORD BEARING OF SOUTH 39°49'06" EAST, A CHORD LENGTH OF 537.66 FEET, FOR AN ARC LENGTH OF 613.08 FEET; THENCE SOUTH 10°21'48" WEST FOR 50.00 FEET; THENCE SOUTHERLY AND SOUTHEASTERLY ALONG A CURVE TO THE LEFT WITH A CENTRAL ANGLE OF 40°20'59", A RADIUS OF 350.00 FEET, A CHORD BEARING OF SOUTH 09°48'41" EAST, A CHORD LENGTH OF 241.42 FEET, FOR AN ARC LENGTH OF 246.48 FEET; THENCE SOUTH 29°59'11" EAST FOR 9.70 FEET; THENCE SOUTH 60°00'49" WEST FOR 40.00 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF THE BROKEN ARROW EXPRESSWAY; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE AND NORTHWESTERLY ALONG A CURVE TO THE LEFT, WITH A CENTRAL ANGLE OF 28°38'25", A RADIUS OF 662.96 FEET, A CHORD BEARING OF NORTH 44°18'24" WEST, A CHORD LENGTH OF 327.95 FEET, FOR AN ARC LENGTH OF 331.39 FEET; THENCE SOUTH 31°22'24" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 10.00 FEET; THENCE NORTH 68°02'57" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 134.13 FEET; THENCE NORTH 00°00'00" EAST AND PARALLEL WITH THE WESTERLY LINE OF SECTION 34 FOR 452.14 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND.





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September 21, 2020
BROKEN ARROW
COMMUNITY DEVELOPMENT

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SCALE IN FEET

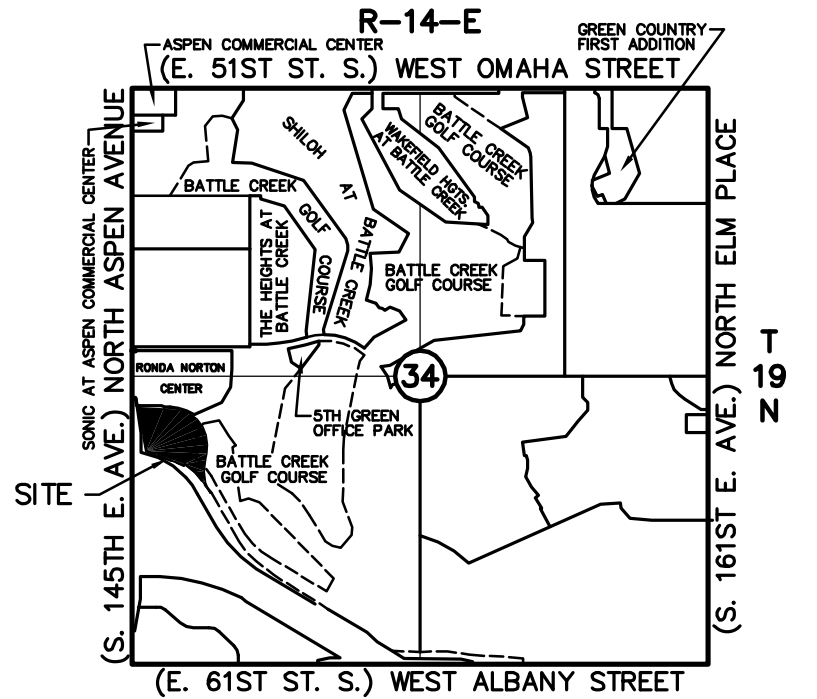
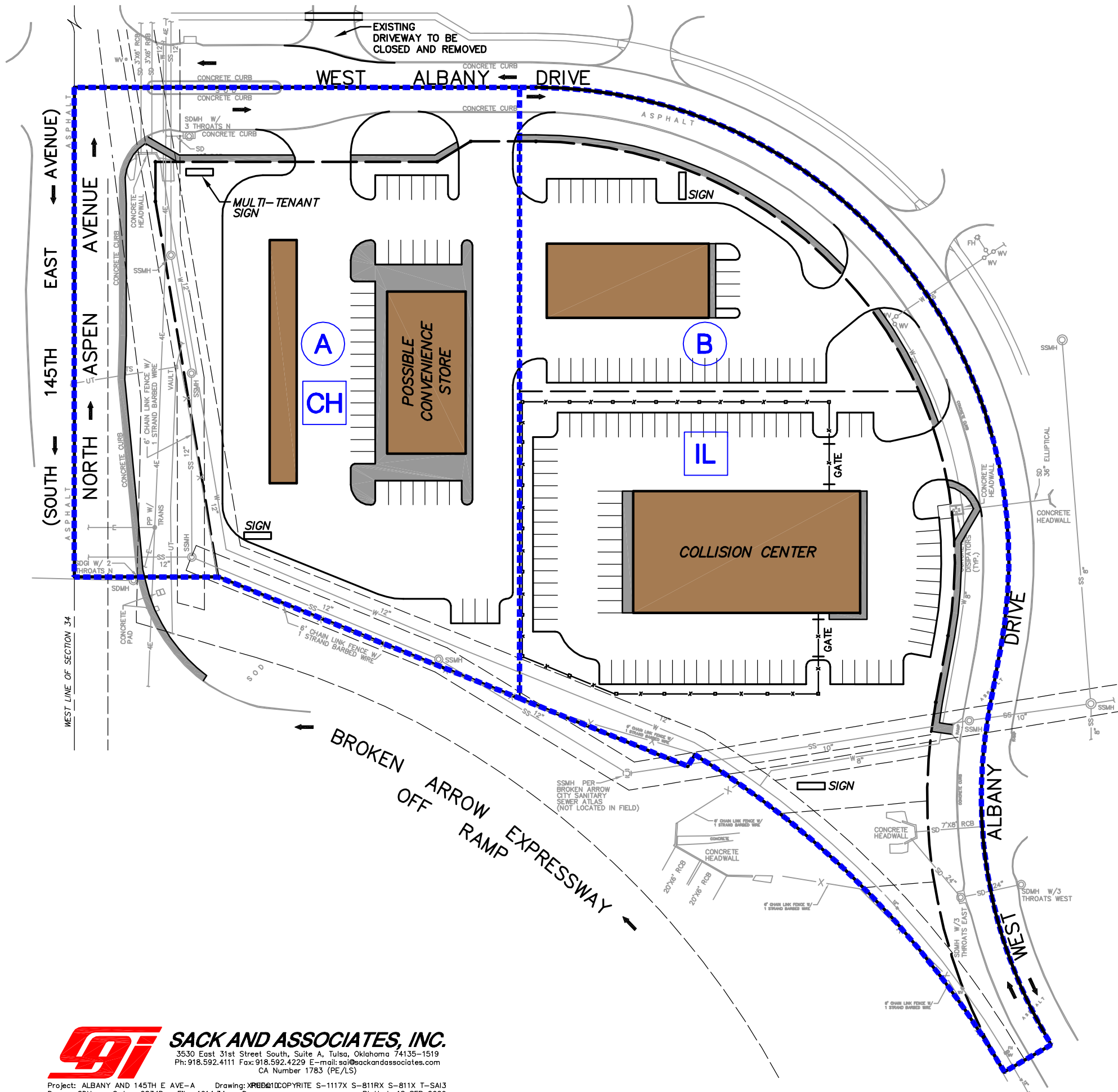
Aspen Circle
Broken Arrow, Oklahoma

Illustration
Concept Plan

EXHIBIT 'A'

Planned Unit Development No. 94V

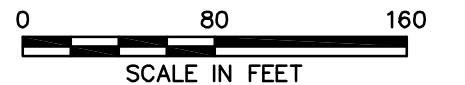
September 2020



Location Map

Legend

- (A) DEVELOPMENT AREA
- (CH) PROPOSED ZONING
- DEVELOPMENT AREA BOUNDARY



RECEIVED
September 21, 2020
BROKEN ARROW
COMMUNITY DEVELOPMENT

Aspen Circle
Broken Arrow, Oklahoma

Proposed Zoning and
Development Areas

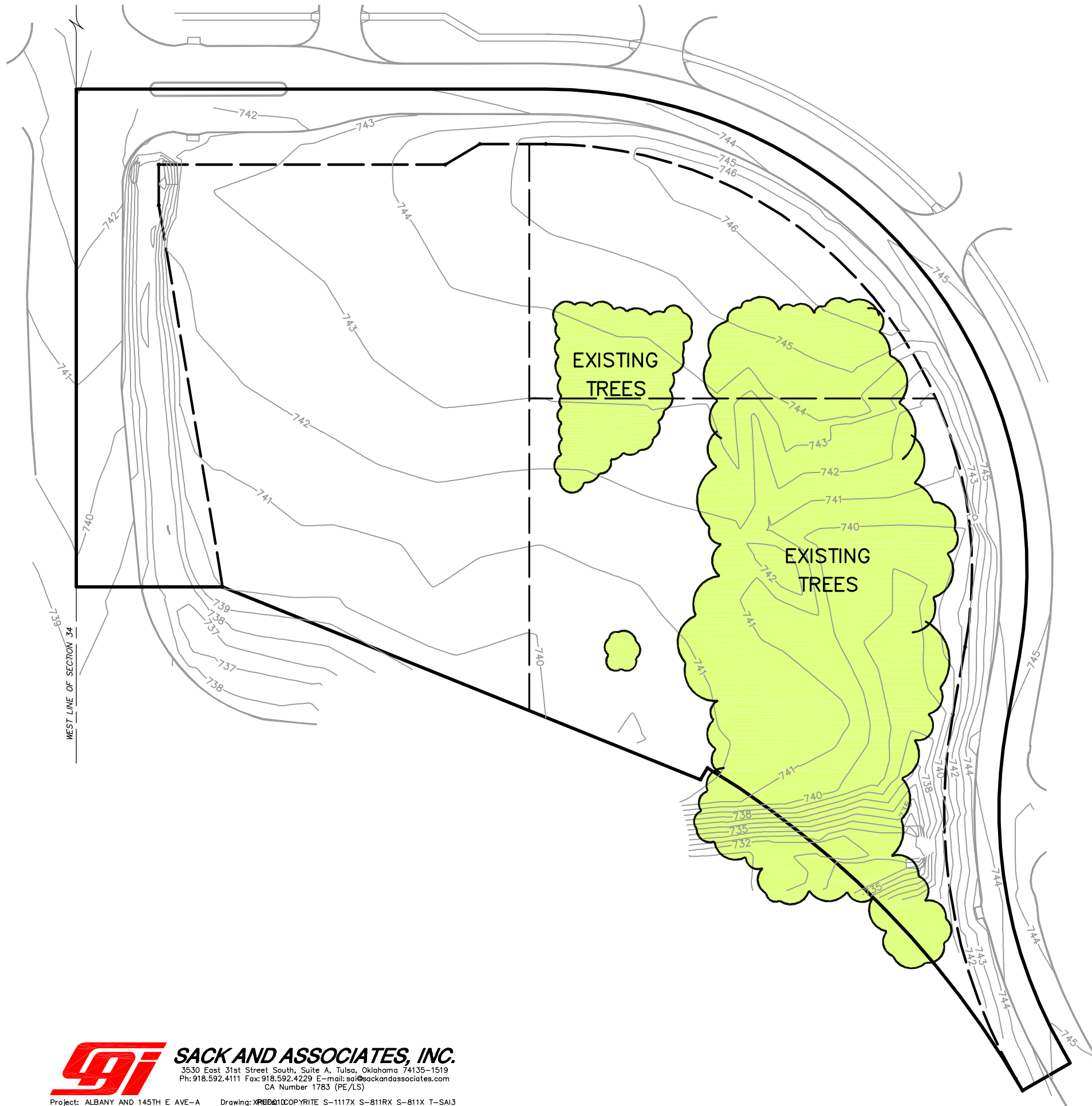
EXHIBIT 'B'

Planned Unit Development No. 94V

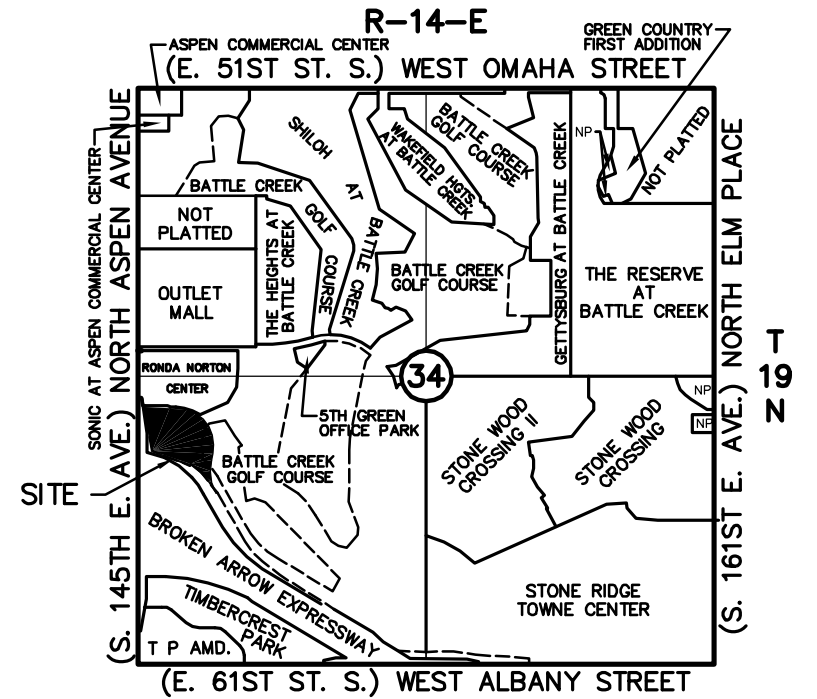
September 2020

SACK AND ASSOCIATES, INC.
3530 East 31st Street South, Suite A, Tulsa, Oklahoma 74135-1519
Ph: 918.592.4111 Fax: 918.592.4229 E-mail: sai@sackandassociates.com
CA Number 1783 (PE/LS)

Project: ALBANY AND 145TH E AVE--A Drawing: XREFD11COPYRITE S-1117X S-811RX S-811X T-SAI3
Drawn: CDH Order: G234D File: 1914.34 Drawer: Plotted: 18 SEP 2020



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September 21, 2020
BROKEN ARROW
COMMUNITY DEVELOPMENT



Location Map

Note

THE SUBJECT PROPERTY IS LOCATED IN ZONE X (NOT SHADED) ACCORDING TO FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOOD INSURANCE RATE MAP NO. 40143C0379L, WITH A REVISED DATE OF OCTOBER 16, 2012.



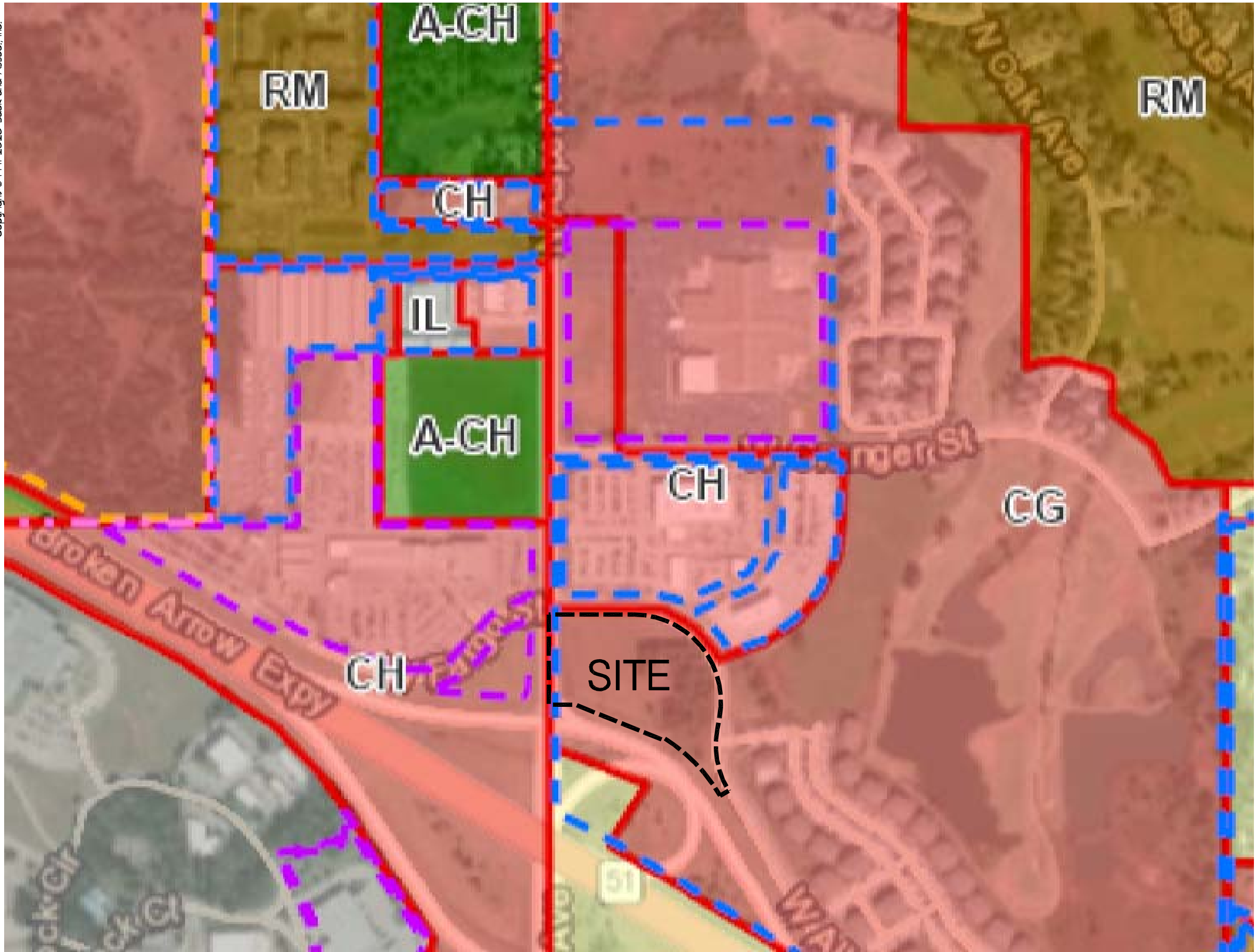
Aspen Circle
Broken Arrow, Oklahoma

Topography, Floodplain and
Existing Vegetation Map

EXHIBIT 'C'

Planned Unit Development No. 94V

September 2020



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September 21, 2020
BROKEN ARROW
COMMUNITY DEVELOPMENT

0 400 800
SCALE IN FEET

Aspen Circle
Broken Arrow, Oklahoma

Adjacent Land Use
and Zoning

EXHIBIT 'D'

Planned Unit Development No. 94V
September 2020

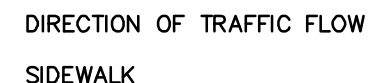


SACK AND ASSOCIATES, INC.
3530 East 31st Street South, Suite A, Tulsa, Oklahoma 74135-1519
Ph: 918.592.4111 Fax: 918.592.4229 E-mail: sai@sackandassociates.com
CA Number 1783 (PE/LS)

Project: ALBANY AND 145TH E AVE--A Drawing: PUD01B XREFs: COPYRITE S-1117X S-811X T-SAI3
Drawn: CDH Order: G234D File: 1914.34 Drawer: Plotted: 11 SEP 2020



Legend

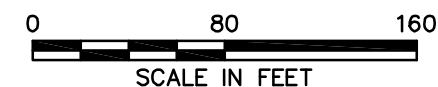


RECEIVED

September 21, 2020

BROKEN ARROW

COMMUNITY DEVELOPMENT



Aspen Circle

Broken Arrow, Oklahoma

Circulation and Access Plan

EXHIBIT 'E'

Planned Unit Development No. 94V

September 2020



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Ph: 918.592.4111 Fax: 918.592.4229 E-mail: soi@sackandassociates.com
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Project: ALBANY AND 145TH E AVE-A Drawing: XREFS10 COPYRIGHT S-1117X S-811RX S-811X T-SAL3
Drawn: CDH Order: G234D File: 1914.34 Drawer: Plotted: 18 SEP 2020



Legend

SHADE TREES

EVERGREEN TREE

RECEIVED

September 21, 2020

BROKEN ARROW

COMMUNITY DEVELOPMENT



Aspen Circle

Broken Arrow, Oklahoma

Landscape and Open Space Concept Plan

EXHIBIT 'F'

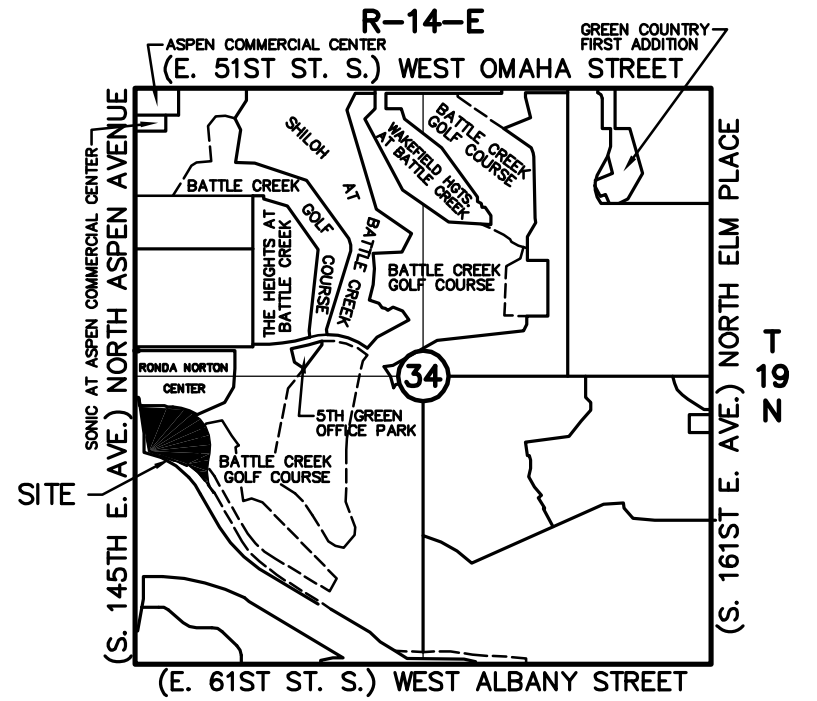
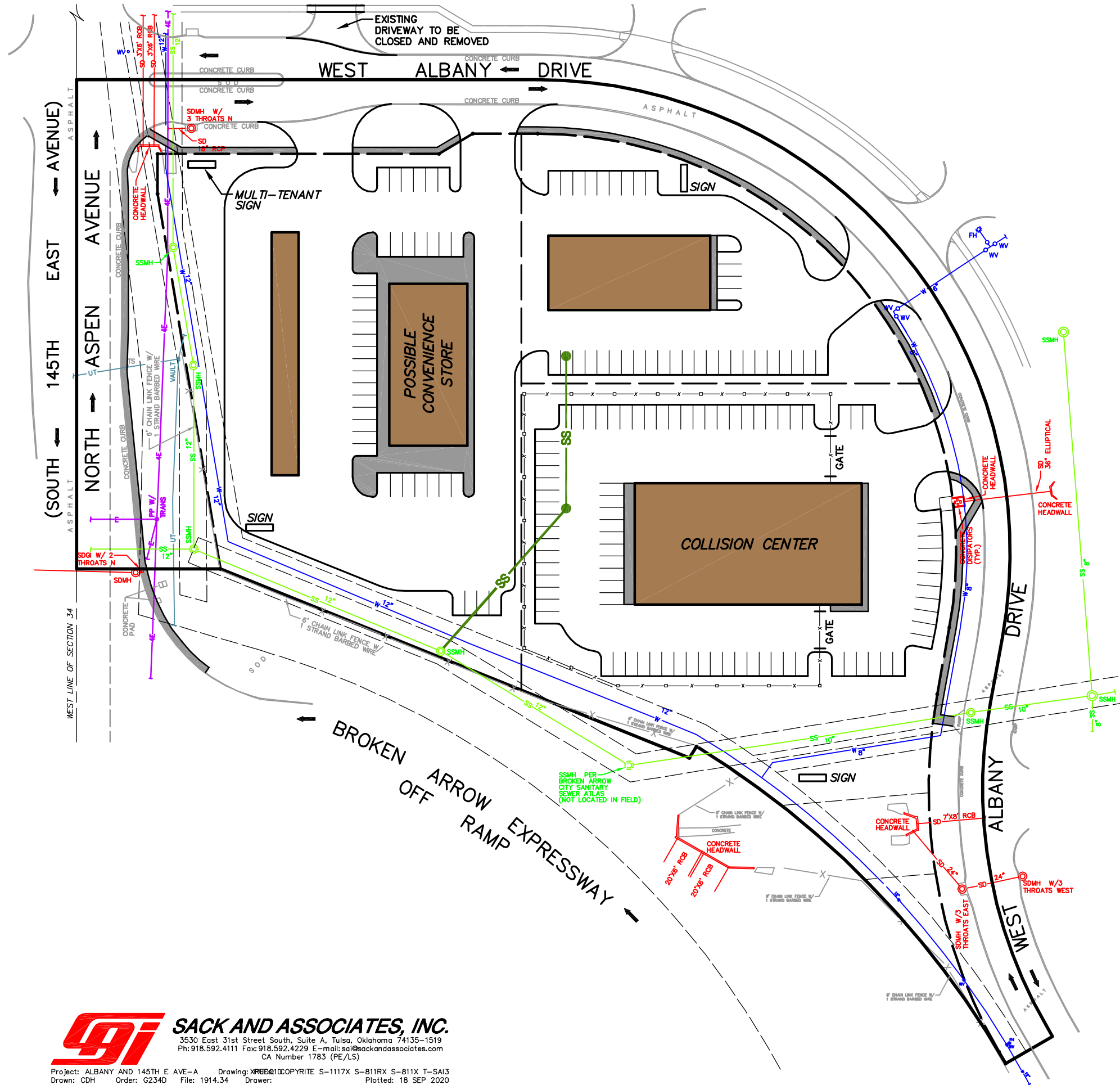
Planned Unit Development No. 94V

September 2020

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Ph: 918.592.4111 Fax: 918.592.4229 E-mail: sai@sackandassociates.com
CA Number 1783 (PE/LS)

Project: ALBANY AND 145TH E AVE-A Drawing: XREFS10 COPYRTE S-1117X S-811RX S-811X T-SAL3
 Drawn: CDH Order: G234D File: 1914.34 Drawer: Plotted: 18 SEP 2020



Location Map

Legend

- PROPOSED DRAINAGE FLOW
- EXISTING FIRE HYDRANT
- EXISTING WATERLINE
- EXISTING SANITARY SEWER
- EXISTING STORM SEWER
- EXISTING OVERHEAD POWER
- EXISTING UNDERGROUND TELEPHONE
- PROPOSED STORM SEWER
- PROPOSED SANITARY SEWER

RECEIVED
September 21, 2020
BROKEN ARROW
COMMUNITY DEVELOPMENT

0 80 160
SCALE IN FEET

Aspen Circle
Broken Arrow, Oklahoma

Existing and Proposed
Utility Plan

EXHIBIT 'G'

Planned Unit Development No. 94V

September 2020



RECEIVED
September 21, 2020
BROKEN ARROW
COMMUNITY DEVELOPMENT

0 250 500
SCALE IN FEET

Aspen Circle
Broken Arrow, Oklahoma

Aerial
Photograph

EXHIBIT 'H'

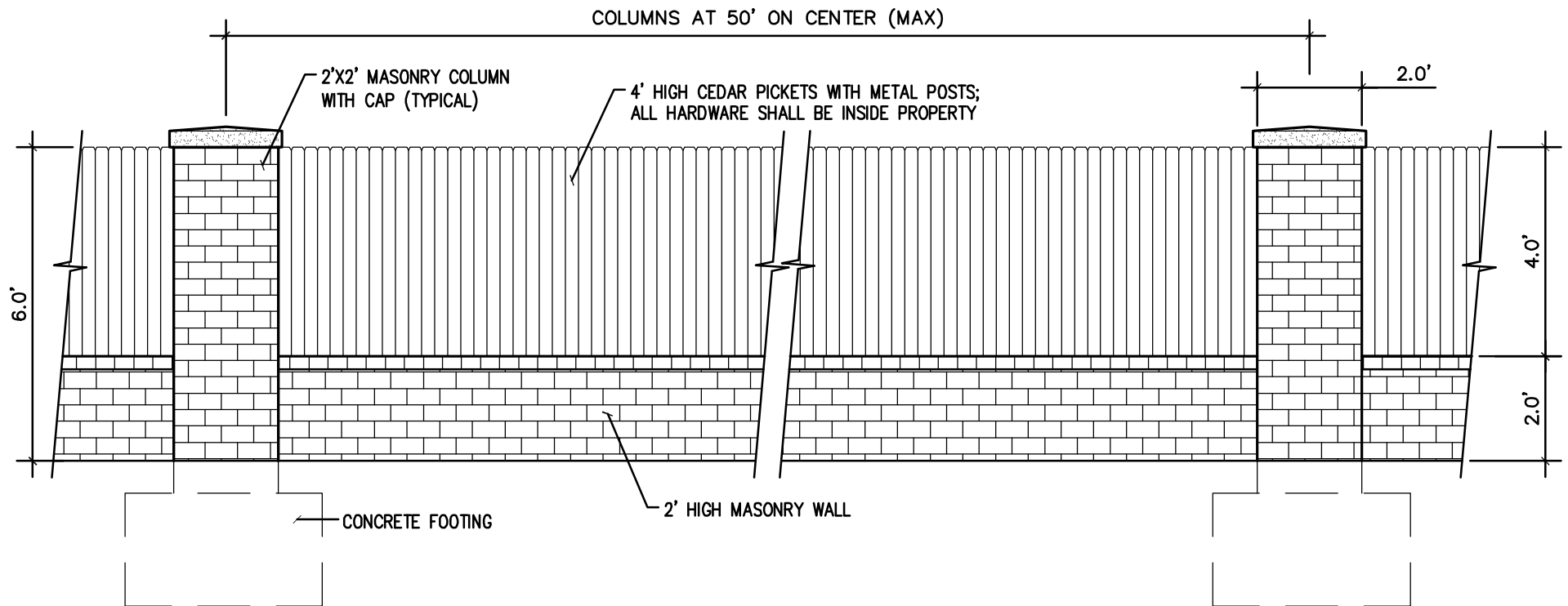
Planned Unit Development No. 94V
September 2020

PHOTOGRAPH DATE: OCTOBER 2018



SACK AND ASSOCIATES, INC.
3530 East 31st Street South, Suite A, Tulsa, Oklahoma 74135-1519
Ph: 918.592.4111 Fax: 918.592.4229 E-mail: sai@sackandassociates.com
CA Number 1783 (PE/LS)

Project: ALBANY AND 145TH E AVE--A Drawing: PUD01B XREFs: COPYRITE S-1117X S-811X T-SAI3
Drawn: CDH Order: G234D File: 1914.34 Drawer: Plotted: 11 SEP 2020



RECEIVED

September 21, 2020

BROKEN ARROW

COMMUNITY DEVELOPMENT

Aspen Circle

Broken Arrow, Oklahoma

Screening Fence for Collision Center

EXHIBIT 'I'

Planned Unit Development No. 94V

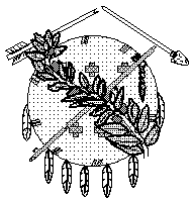
September 2020



SACK AND ASSOCIATES, INC.

3530 East 31st Street South, Suite A, Tulsa, Oklahoma 74135-1519
Ph: 918.592.4111 Fax: 918.592.4229 E-mail: sales@sackandassociates.com
CA Number 1783 (PE/LS)

Project: ALBANY AND 145TH E AVE-A Drawing: XRED11COPYRITE S-1117X S-811RX S-811X T-SAL3
 Drawn: CDH Order: G234D File: 1914.34 Drawer: Plotted: 18 SEP 2020



City of Broken Arrow

Request for Action

File #: 20-1257, Version: 1

Broken Arrow Planning Commission

10-08-2020

To: Chairman and Commission Members

From: Development Services Department

Title:

Public hearing, consideration, and possible action regarding PUD-276A (Planned Unit Development Minor Amendment), Timber Ridge Cottages, 8.05 acres, RM/PUD-276, one-quarter mile south of Kenosha Street (71st Street), east of 37th Street (209th E Avenue)

Background:

Applicant: DHTC Development, LLC

Owner: Timber Ridge Cottages Broken Arrow, LP

Developer: DHTC Development, LLC

Engineer: Crockett Engineering Consultants

Location: One-quarter mile south of Kenosha Street, east of 209th E Avenue

Size of Tract 8.05 acres

Present Zoning: RM (Residential Multi-Family) and PUD-276

Proposed Zoning: RM (Residential Multi-Family) and PUD-276A

Comp Plan: Level 3

Planned Unit Development (PUD)-276A, minor amendment to PUD-276, involves an 8.05 acre parcel located one-quarter mile south of Kenosha Street, east of 209th E Avenue. The property is zoned RM (Residential Multi-Family) and PUD-276 and has been platted as Lot 1, Block 1, Timber Ridge Cottages.

BACP-161, a request to change the comprehensive plan designation on this property from Level 4 to Level 3, was approved by the City Council on April 17, 2018. BAZ-1998 and PUD-276 were approved on this property by City Council on May 1, 2018.

Timber Ridge Cottages is a senior multi-family housing with a mix of duplex (6 units), 4 Plex (40 units), and apartment style dwellings (28 units) for a total of 74 units. With PUD-276A, the applicant is requesting to reduce the landscaping requirements in Section 5.2.B.1.a.iii of the Zoning Ordinance. This section requires that, in the RM district, at least two trees and five shrubs be planted per multi-family housing unit. Due to the compact nature of this development, the applicant is requesting to reduce this requirement to one tree and three shrubs per unit. All other landscaping requirements, perimeter landscaping and parking lot landscaping, will be provided per the Zoning Ordinance. In total, 132 trees and 222 shrubs will be required for this development if PUD-276A is approved. All other provisions of PUD-276 shall remain as approved.

SURROUNDING LAND USES/ZONING/COMPREHENSIVE PLAN

The surrounding properties contain the following uses, along with the following development guide and zoning designations:

Location	Development Guide	Zoning	Land Use
North	Level 4	A-1	Undeveloped
East	Level 4	CG	Undeveloped/Creek Turnpike
South	Level 4	A-1/SP-164	Ridge at Broken Arrow (Place of Assembly)
West	Level 4	A-1	Undeveloped

None of the property is located in a 100-year floodplain area.

The property associated with PUD-276A is designated as Level 3 of the Comprehensive Plan. The development proposed with PUD-276A is considered to be in compliance with the Comprehensive Plan in Level 3.

Attachments: Case map
Aerial photo
PUD-276A Design Statement
PUD-276A Exhibit

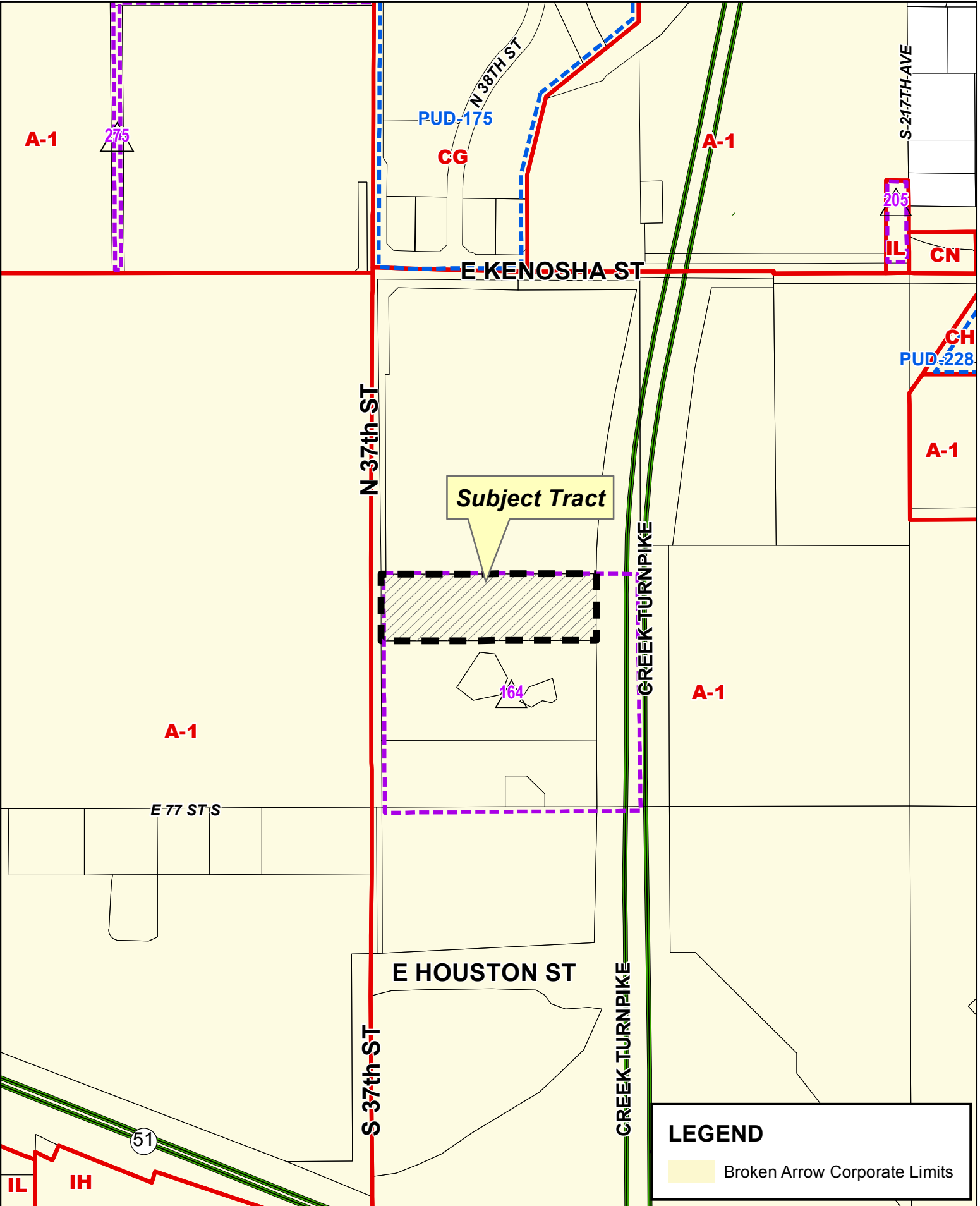
Recommendation:

Based on the location of the property, the surrounding land uses, and the nature of the amendment request, Staff recommends that PUD-276A be approved.


Reviewed By: Jill Ferenc

Approved By: Larry R. Curtis

ALY

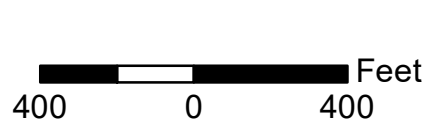


LEGEND

 Broken Arrow Corporate Limits



Timber Ridge Cottages
PUD-276A





August 31, 2020

RE: Timber Ridge Cottages - PUD #276
Proposed Minor Amendment

The current proposed landscape plan is attached.

The requested Minor Amendment would allow:

1. The landscape plan to be revised to show the reduction of trees, from 2 to 1, and shrubs, from 5 to 3, which are required to be planted.

All other provisions, previously approved by the City of Broken Arrow, of the PUD shall remain in effect.

Sincerely,
Crockett Engineering Consultants, LLC

Andy Greene, PE

APPROVED TREE LIST			
Common Name	Note	Botanical Name	Recommendations & Cultivars
Large Trees: Trees that mature over sixty feet (60') in height. These trees need spacing of at least thirty-five feet (35').			
Cypress, Bald	**	Taxodium disticum	
Ginko (male)	**	Ginko biloba	Priceton Gold, Autumn Gold, Pendula
Hackberry, Common		Celtis occidentalis	Chicagoland, Dieta, Windy City
Oak, Black		Quercus velutina	
Oak, Bur		Quercus macrocarpa	
Oak, Northern Red		Quercus rubra	
Oak, Pin		Quercus palustris	Plant only in Bottomlands
Oak, Shumard	**	Quercus shumardi	
Oak, Southern Red		Quercus falcate	
Oak, Swamp White		Quercus bicolor	
Oak, Water		Quercus nigra	
Oak, White		Quercus alba	
Oak, Willow		Quercus phellos	
Pine, Limber		flexilis	
Pine, Loblolly		Pinus taeda	
Pine, Shortleaf		Pinus echinata	
Planetree, London		Platanus x acerifolia	Bloodgood, Columbia, Liberty, Yarwood
Tulip Tree		Liriodendron tulipifera	
Medium Trees: Trees with a mature size from thirty feet (30') to sixty feet (60'). These trees need a spacing of at least twenty-five feet (25').			
Ash, Green* (improved cultivars)	**	Fraxinus pennsylvanica	"Urbanite"
Cedar, Atlas		Cedrus atlantica	
Cedar, Western Red		Thuja plicata	
Chittamwood		Bumelia lanuginosa	
Coffeetree, Kentucky (male)		Gymnocladus dioica	Espresso, Prairie Titan, Stately Manor
Cypress, Arizona		Cupressus arizonica	
Cypress, Leyland		Cupressocyparis leylandii	
Birch, River		Betula nigra	
Dogwood, Kouse		Cornus kousa	
Elm, Lacebark	**	Ulmus parvifolia	Allee, Athena, True Green and many more
Elm, Cedar		Ulmus crassifolia	

Common Name	Note	Botanical Name	Recommendations & Cultivars
Goldenrain Tree* (improved Cultivars)	**	Koeleruteria paniculata	Fastigiata, September, Stadher's Hill, Panicked
Hackberry, Sugar		Celtis, laevigata	
Hophornbeam, Eastern		Ostrya virginiana	
Hornbeam, European		Carpinus betulus	
Japanese Pagoda Tree		Sophora japonica	
Juniper, Rocky Mountain		Juniperus scopulorum	
Linden, Greenspire* (improved cultivars)	**	Tilia cordata "Greenspire"	Bicentennial, Bhijje, Shamrock, Turesi
Magnolia, Sweetbay		Magnolia virginiana	
Maple, Norway * (improved cultivars)		Acer platanoides	
Maple, Red* (improved cultivars)		Acer rubrum	
Maple, Shantung		Acer truncatum	Norwegian Sunset, Pacific Sunset
Maple, Sugar		Acer saccharum	Caddo, Legacy, Green Mountain
Maple, October Glory			
Mulberry, White (male)		Morus alba 'Fruitless'	
Oak, Blackjack		Quercus marilandica	
Oak, Chinquapin	**	Quercus muehlenbergi	
Oak, English	**	Quercus robur	
Oak, Live		Quercus virginiana	
Oak, Post		Quercus stellata	
Oak, Sawtooth	**	Quercus acutissima	
Pear, Callary* (improved cultivars)	**	Pyrus calleryana var.	Aristocrat, Autumn Blaze, Callary, Cleveland Select, Chanticleer, Trinity, Capitol
Pine, Austrian		Pinus nigra	
Pine, Japanese Black		Pinus thunbergiana	
Pistache, Chinese	**	Pistacia chinensis	
Western Soapberry		Sapindus drummondii	
Zelkova, Japanese		Zelkova serrata	Aurea, Autumn Glow, Spring Grove, etc.
Small Trees: Trees with a mature size of less than thirty feet (30'). These trees need a spacing of at least fifteen feet (15').			
Cherry, Japanese		Prunus serrulata	
Chokecherry		Prunus virginiana	
Crabapple, Flowering* (improved cultivars)	**	Malus spp.	20 - 30 Crabapple Species
Crapemyrtle* (improved cultivars)	***	Lagerstromia indica	Many Various Species
Hawthorn, Washington* (improved cultivar)		Crataegus phaenopyrum	

Common Name	Note	Botanical Name	Recommendations & Cultivars
Holly, Deciduous	***	Ilex deciduas	Warren's Red
Foster Holly	***	Ilex x attenuata	
Holly, American		Ilex opaca	
Holly, Yaupon	***	Ilex vomitoria	
Hornbeam, American		Carpinus caroliniana	
LiIac, Japanese		Syringus reticulata	
Magolia, Saucer		Magnolia soulangiana	
Maple, Amur		Acer ginnala	
Mockorange, Sweet		Philadelphus coronaries	
Ninebark, Purple "Diabolo"		Physocarpus opulifolius	
Redbud, Eastern	**	Cercis canadensis	
Redbud, Oklahoma* (improved cultivar)	**	Cercis reniformis	
Russian Olive	**	Elaeagnus angustifolia	
Serviceberry, Downy		Amelanchier arborea	
Smoketree	**	Cotinus coggygia	
Whitebud, Eastern		Cercis canadensis, alba	
NOTES:			
	*	Improved Cultivars available	
	**	Best trees for Parking Lot Application	
	***	Requires 1 plant per 25' of Required Landscape Edge	

APPROVED SHRUB LIST:

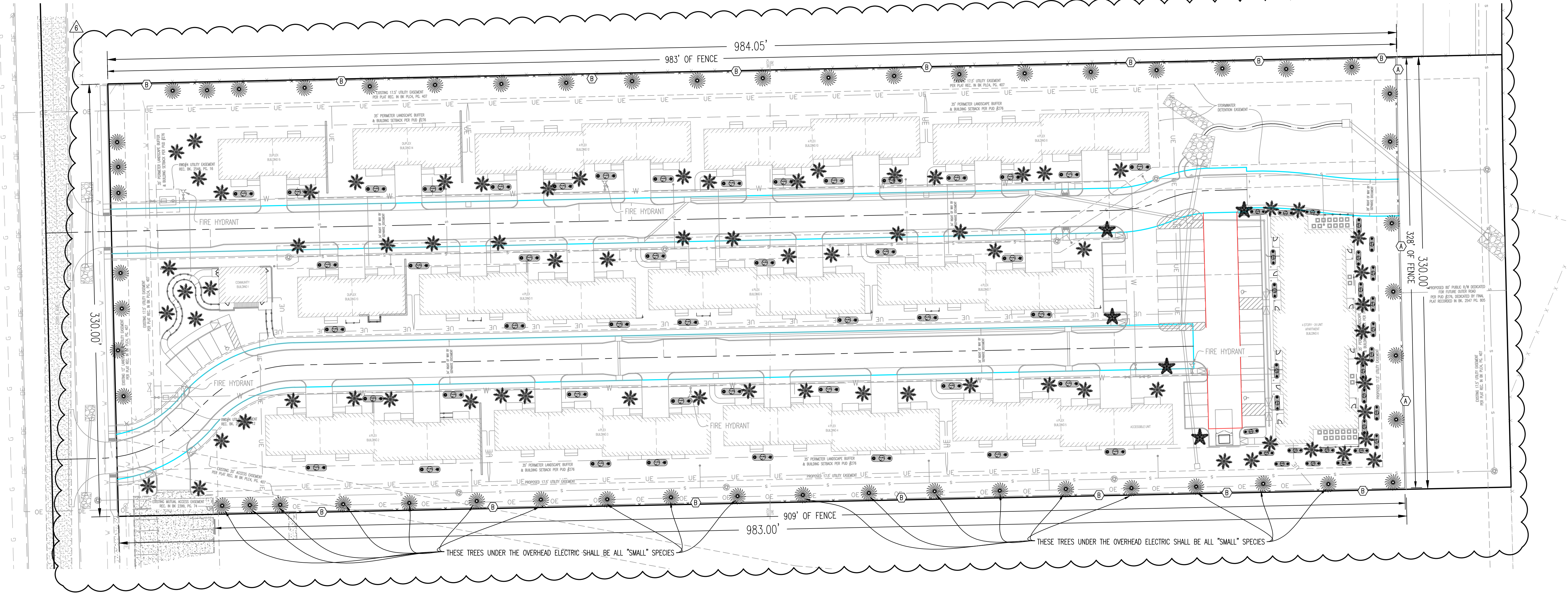
ARONIA MELANOCARPA – BLACK CHOKEBERRY
CALLICARPA AMERICANA – AMERICAN BEAUTY BERRY
CEANOTHUS AMERICANUS – NEW JERSEY TEA
CORYLUS AMERICANA – HAZELNUT
HYDRANGEA ARBORESCENS – WILD HYDRANGEA
ITEA VIRGINICA – VIRGINIA SWEETSPICE
RHUS AROMATICA – FRAGRANT SUMAC
RHUS COPALLINA
RIBES ODORATUM – GOLDEN CURRENT
ILEX VERTICILLATA – WINTERBERRY
CALLICARPA AMERICANA – BEAUTYBERRY
VIBURNUM X FRAGRENSE PRAGUE VIBURNUM

LANDSCAPE COMPLIANCE:

5.2 B.1 a.ii. - TREE REQUIREMENTS		
ONE (1) TREE PER 50 LINEAL FEET OF LANDSCAPED EDGE 2,627 LINEAL FEET OF LANDSCAPED EDGE @ 1 TREE PER 50 FEET = (2" MIN. CALIPER AND ON THE CITY'S APPROVED TREE LIST) USE AN EVEN MIXTURE OF THESE SPECIES: WHITE OAK, RIVER BIRCH, RED MAPLE & EASTERN REDBUD USE ONLY SMALL TREES UNDER OVERHEAD ELECTRIC: EASTERN REDBUD, SAUCER MAGNOLIA & FLOWERING CRABAPPLE	53 TREES	
5.2 B.1 a.iii. (A) - PARKING LOTS ABUTTING LANDSCAPED EDGE		
10 SHRUBS PER 50 LINEAL FEET OF PARKING ABUTTING LANDSCAPED EDGE (AND LANDSCAPED EDGE BE LESS THAN 35 FEET)	0 LINEAL FEET	0 SHRUBS
5.2 B.1 a.iv. - RM DISTRICT LANDSCAPING		
ONE (1) TREE USE AN EVEN MIXTURE OF THESE SPECIES: GREEN ASH, KENTUCKY COFFEETREE, SWEETBAY MAGNOLIA, JAPANESE ZELKOVA, JAPANESE CHERRY, EASTERN WHITEBUD, & SAUCER MAGNOLIA & THREE (3) SHRUBS PER UNIT (SHRUBS MUST BE 3 GALLON MINIMUM) <--- SHRUB PLANTING SYMBOL CONTAINS 3 SHRUBS WITHIN A MULCH BED USE A MIXTURE OF ANY SHRUBS WITHIN THE "APPROVED SHRUB LIST"	74 UNITS	74 TREES
		222 SHRUBS
5.2 B.1 c.i (A) - MULTI-FAMILY PARKING LOT TREES		
ONE (1) TREE PER 10 PARKING SPACES (2" MIN. CALIPER AND ON THE CITY'S APPROVED TREE LIST AND PLANTED WITHIN 15' OF PARKING) USE A MIXTURE OF THESE SPECIES: SMOKETREE, FLOWERING CRAB APPLE & OKLAHOMA REDBUD	46 SPACES	5 TREES
5.2 E.2 a - FENCING ALONG HIGHWAY		
6 FOOT TALL FENCE ADJACENT TO HIGHWAY FRONTAGE (LOCATED 1' INSIDE PROPERTY LINE)	328' OF 6' FENCE	
5.2 E.2 B. - PERIMETER FENCING		
6 FOOT TALL FENCE ADJACENT TO AGRICULTURAL ZONING (LOCATED 1' INSIDE PROPERTY LINE)	1892' OF 6' FENCE	

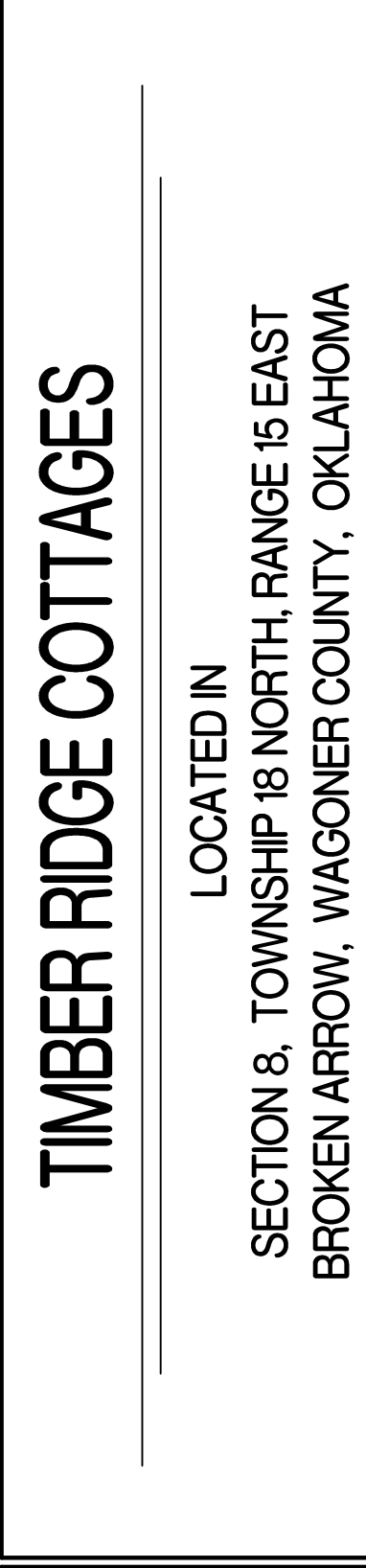
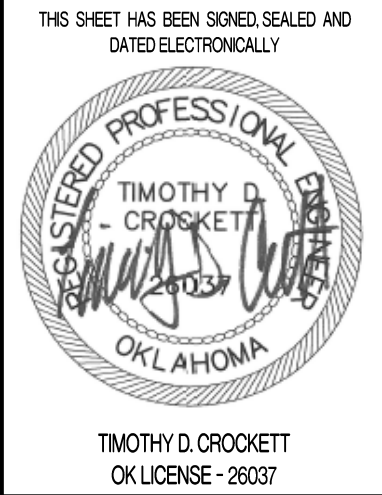
LANDSCAPING NOTES:

- ALL TREES SHALL BE AT LEAST 10 FEET AWAY FROM A FIRE HYDRANT.
- ALL MEDIUM TO LARGE TREES SHALL BE AT LEAST 20 FEET AWAY FROM ANY OVERHEAD UTILITY LINES.
- ALL MEDIUM TO LARGE TREES SHALL BE AT LEAST 5 FEET AWAY FROM ANY PUBLIC UNDERGROUND UTILITY LINE.
- TREE AND SHRUB SPECIES MAY BE SUBSTITUTED WITH OTHER SPECIES WITHIN THE SAME CATEGORY OF THE "APPROVED TREE LIST" OR "APPROVED SHRUB LIST" ON THIS SHEET. APPROVAL OF ANY SUBSTITUTIONS MUST BE APPROVED BY THE CITY OF BROKEN ARROW.
- LANDSCAPING CONTRACTOR SHALL COORDINATE UTILITY LOCATES AND IDENTIFY ALL UNDERGROUND UTILITIES WITHIN THE LIMITS OF THEIR WORK AREA BEFORE ANY EXCAVATION MAY BEGIN.
- SHRUB BEDS & TREE RINGS SHALL BE MULCHED WITH 3" OF DYED BROWN HARDWOOD MULCH.
- LANDSCAPE CONTRACTOR SHALL GUARANTEE ALL PLANT MATERIALS FOR A PERIOD OF TWELVE MONTHS.



REVISIONS:

NO.	DATE
ORIGINAL	08/19/2019
3	05/12/2020
6	08/31/2020



DESIGNED:	ATG
DRAWN:	ATG
PROJECT NO.:	170655
SHEET:	CE 16A



City of Broken Arrow

Request for Action

File #: 20-1258, **Version:** 1

Broken Arrow Planning Commission

10-08-2020

To: Chairman and Commission Members
From: Development Services Department

Title: Public hearing, consideration, and possible action regarding BAZ-2068 (Rezoning), Medwise Urgent Care South, 29.18 acres, A-1 (Agricultural)/SP-270 (Specific Use Permit) to CN (Commercial Neighborhood) and ON (Office Neighborhood), south of the Creek Turnpike, east of Elm Place (161st East Avenue)

Background:

Applicant: Mark Zelnik
Owner: Life Covenant Church, Inc.
Developer: Life Covenant Church, Inc.
Surveyor: Tanner Consulting, LLC
Location: South of the Creek Turnpike, east of Elm Place (161st East Avenue)
Size of Tract 29.18 acres
Number of Lots: 1
Present Zoning: A-1/SP-270
Proposed Zoning: ON and CN/SP-270
Comp Plan: Level 4 (Commercial/ Employment Nodes) and Level 2 (Urban Residential)

BAZ-2068 is a request to change the zoning designation on a 29.18-acre tract from A-1 (Agricultural)/SP-270 to CN (Commercial Neighborhood) and ON (Office Neighborhood). The property has been platted as Lot 1, Block 1, Lifechurch.tv Broken Arrow South.

The applicant is proposing to rezone the east 27.97 acres, to ON for the LifeChurch property. The west 1.21 acres is requested to be rezoned to CN for a proposed urgent care facility. With the current A-1 zoning designation, the property is required to have 330-feet of street frontage. In order to split the property and have both new parcels meet the street frontage requirements, a rezoning is necessary. The proposed ON and CN zoning districts were chosen based on the current and proposed uses of the property.

A Specific Use Permit, SP-270, was approved on this property on August 6, 2013 by the City Council. Section 3.2.B.6 of the Zoning Ordinance states that where an assembly use is originally approved by a specific use or PUD, any subsequent associated development which increases the intensity of the use on the site by more than what has been approved shall require an amendment to the specific use or PUD. In order to allow the proposed urgent care facility, SP-270 needs to be abrogated on the portion of the property being rezoned to CN. The remainder of the property, which is being requested to be rezoned to ON, will retain the provisions of SP-270.

If any change of use is proposed on this property, the property owner will need to submit an application to amend the specific use permit.

Access to this property is through a private drive located to the south of the Creek Turnpike. The property plat has a limits of no access along the northwest boundary of the property. Any newly created parcel will be required to utilize the existing LifeChurch driveway and obtain a mutual access easement. No future access points shall be allowed onto Elm Place.

Surrounding land uses and zoning classifications include the following:

North:	A-1	Creek Turnpike
East:	A-1	Undeveloped
South:	R-2	Single-Family Residential
West:	CG	Commercial Development

This property is in Level 4 (Commercial/Employment Node) and Level 2 (Urban Residential) of the Comprehensive Plan. CN is considered to be in accordance with the Comprehensive Plan in Level 4. ON is considered in accordance with the Comprehensive Plan in Level 2, provided the site is located adjacent to an arterial street and none of the traffic from the ON area shall utilize roads that pass through a single-family residential neighborhood. According to the FEMA maps, none of the property is located in a 100-year floodplain area.

Attachments: Case map for BAZ-2063
Aerial photo
Comprehensive Plan
Exhibit A

Recommendation:

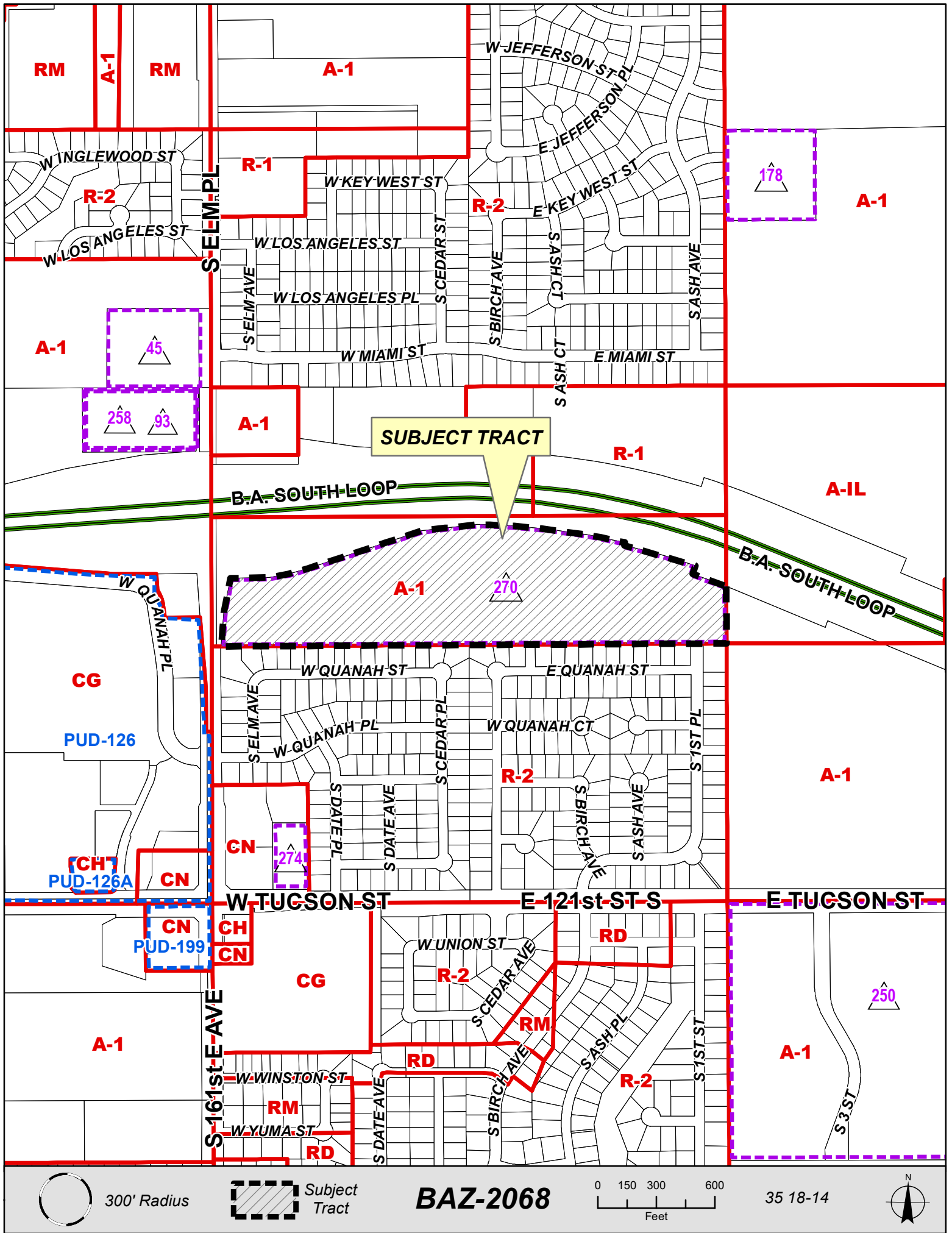
Based on the Comprehensive Plan, the location of the property, and the surrounding land uses, Staff recommends that BAZ-2068 be approved subject to the following conditions:

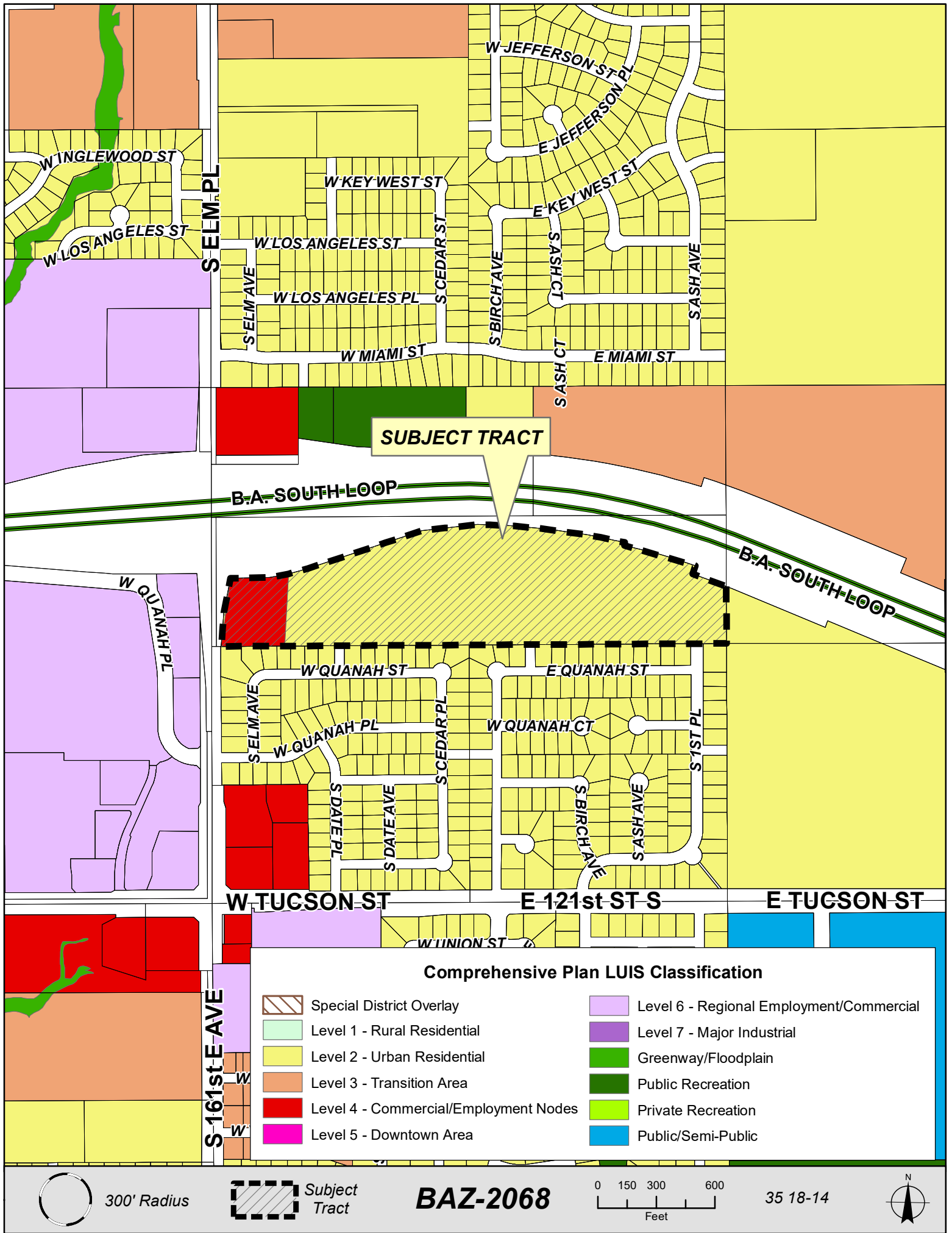
1. Access to any future development on the CN property be through a mutual access easement to the existing drive onto Elm Place.
2. The portion of SP-270 in the area being rezoned to CN shall be abrogated.
3. Any change in use of the ON property shall require an update to SP-270.

Reviewed by: Jill Ferenc

Approved by: Larry R. Curtis

ALY





LIFECHURCH.TV BROKEN ARROW SOUTH
Deed of Dedication and Restrictive Covenants

KNOW ALL MEN BY THESE PRESENTS:

LIFE COVENANT CHURCH, INC., 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 TRACT OF LAND LYING IN PART OF THE SOUTH HALF OF THE NORTH HALF OF THE SOUTHWEST QUARTER (S/2 N/2 SW/4) OF SECTION THIRTY-FIVE (35), TOWNSHIP EIGHTEEN (18) NORTH, RANGE FOURTEEN (14) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, SAID TRACT OF LAND BEING DESCRIBED AS FOLLOWS, TO-WIT:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTH HALF OF THE NORTH HALF OF THE SOUTHWEST QUARTER (S/2 N/2 SW/4) OF SECTION THIRTY-FIVE (35), TOWNSHIP EIGHTEEN (18) NORTH, RANGE FOURTEEN (14) EAST OF THE INDIAN BASE AND MERIDIAN; THENCE S01°19'47"E ALONG THE WEST LINE OF THE S/2 N/2 SW/4 OF SECTION 35 A DISTANCE OF 661.71 FEET; THENCE N88°36'54"E A DISTANCE OF 48.58 FEET TO A POINT ON THE CREEK TURNPIKE SOUTHERLY RIGHT OF WAY AND THE POINT OF BEGINNING; THENCE ALONG SAID RIGHT-OF-WAY N03°32'05"E A DISTANCE OF 172.56 FEET; THENCE N09°28'52"E AND CONTINUING ALONG SAID RIGHT-OF-WAY A DISTANCE OF 179.25 FEET; THENCE N87°22'01"E AND CONTINUING ALONG SAID RIGHT-OF-WAY A DISTANCE OF 200.25 FEET; THENCE N78°47'38"E AND CONTINUING ALONG SAID RIGHT-OF-WAY A DISTANCE OF 100.50 FEET; THENCE N73°11'42"E AND CONTINUING ALONG SAID RIGHT-OF-WAY A DISTANCE OF 101.98 FEET; THENCE N70°26'14"E AND CONTINUING ALONG SAID RIGHT-OF-WAY A DISTANCE OF 615.66 FEET; THENCE N82°33'10"E AND CONTINUING ALONG SAID RIGHT-OF-WAY A DISTANCE OF 286.29 FEET; THENCE SOUTHEASTERLY ON A CURVE TO THE RIGHT AND CONTINUING ALONG SAID RIGHT-OF-WAY, SAID CURVE HAVING A RADIUS OF 3644.72 FEET (SAID CURVE BEING SUB-TENDED BY A CHORD BEARING S84°11'30"E AND A CHORD LENGTH OF 761.96 FEET), AN ARC DISTANCE OF 763.35 FEET; THENCE S11°48'40"W AND CONTINUING ALONG SAID RIGHT-OF-WAY A DISTANCE OF 15.00 FEET; THENCE SOUTHEASTERLY ON A CURVE TO THE RIGHT AND CONTINUING ALONG SAID RIGHT-OF-WAY, SAID CURVE HAVING A RADIUS OF 3629.72 FEET (SAID CURVE BEING SUB-TENDED BY A CHORD BEARING S75°11'30"E AND CHORD LENGTH OF 379.93 FEET), AN ARC DISTANCE OF 380.10 FEET; THENCE S17°48'30"W AND CONTINUING ALONG SAID RIGHT-OF-WAY A DISTANCE OF 45.00 FEET; THENCE SOUTHEASTERLY ON A CURVE TO THE RIGHT AND CONTINUING ALONG SAID RIGHT-OF-WAY, SAID CURVE HAVING A RADIUS OF 3584.72 FEET (SAID CURVE BEING SUB-TENDED BY A CHORD BEARING S70°42'42"E AND A CHORD LENGTH OF 185.19 FEET), AN ARC DISTANCE OF 185.21 FEET TO A POINT ON THE EAST LINE OF THE S/2 N/2 SW/4 OF SECTION 35; THENCE S01°23'30"E AND ALONG SAID EAST LINE A DISTANCE OF 294.25 FEET TO THE SOUTHEAST CORNER OF SAID S/2 N/2 SW/4; THENCE S88°35'52"W AND ALONG THE SOUTH LINE OF SAID S/2 N/2 SW/4 A DISTANCE OF 2591.65 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINING 29.19 ACRES, MORE OR LESS.

AND HAS CAUSED THE ABOVE-DESCRIBED LAND TO BE SURVEYED, STAKED, PLATTED AND SUBDIVIDED INTO ONE LOT IN CONFORMITY WITH THE ACCOMPANYING PLAT AND SURVEY (HEREINAFTER THE "PLAT"), AND IN ACCORDANCE WITH THE CITY OF BROKEN ARROW, OKLAHOMA SUBDIVISION REGULATIONS, AND HAS DESIGNATED THE SUBDIVISION AS "LIFECHURCH.TV BROKEN ARROW SOUTH," A SUBDIVISION IN THE CITY OF BROKEN ARROW, TULSA COUNTY, OKLAHOMA (HEREINAFTER THE "SUBDIVISION").

SECTION I. EASEMENTS AND UTILITIES

A. UTILITY EASEMENTS

THE OWNER/DEVELOPER DOES HERBY DEDICATE FOR PUBLIC USE THE UTILITY EASEMENTS AS DEPICTED ON THE ACCOMPANYING PLAT AS "U/E" OR "UTILITY EASEMENT" 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, ACROSS AND ALONG ALL OF 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 EACH LOT OWNER 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, LANDSCAPING, CUSTOMARY SCREENING FENCES AND WALLS THAT DO NOT CONSTITUTE AN OBSTRUCTION.

B. UNDERGROUND SERVICE

- OVERHEAD LINES FOR THE SUPPLY OF ELECTRIC, TELEPHONE AND CABLE TELEVISION SERVICES MAY BE LOCATED ALONG THE PERIMETER BOUNDARY OF THE SUBDIVISION, IF LOCATED WITHIN A GENERAL UTILITY EASEMENT AS DEPICTED ON THE ACCOMPANYING PLAT. STREET LIGHT POLES OR STANDARDS MAY BE SERVED BY OVERHEAD LINE OR UNDERGROUND CABLE, AND ELSEWHERE THROUGHOUT THE SUBDIVISION ALL SUPPLY LINES SHALL BE LOCATED UNDERGROUND IN THE GENERAL UTILITY EASEMENTS. SERVICE PEDESTALS AND TRANSFORMERS, AS SOURCES OF SUPPLY AT SECONDARY VOLTAGES, MAY ALSO BE LOCATED IN THE GENERAL UTILITY EASEMENTS.
- 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 USAGE DETERMINED BY THE LOCATION AND CONSTRUCTION OF SUCH STRUCTURE AS MAY BE LOCATED UPON THE LOT, PROVIDED THAT UPON THE INSTALLATION OF A SERVICE CABLE TO A PARTICULAR STRUCTURE, THE SUPPLIER OF SERVICE SHALL THEREAFTER BE DEEMED TO HAVE A DEFINITIVE, PERMANENT AND EFFECTIVE EASEMENT ON THE LOT, COVERING A 5 FOOT STRIP EXTENDING FROM THE SERVICE PEDESTAL OR TRANSFORMER TO THE SERVICE ENTRANCE ON THE STRUCTURE.
- THE SUPPLIER OF ELECTRIC, TELEPHONE, CABLE TELEVISION SERVICES, THROUGH ITS AGENTS AND EMPLOYEES, SHALL AT ALL TIMES HAVE RIGHT OF ACCESS TO ALL GENERAL UTILITY EASEMENTS 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 THE UNDERGROUND ELECTRIC, TELEPHONE OR CABLE TELEVISION FACILITIES INSTALLED BY THE SUPPLIER OF THE UTILITY SERVICE.

- 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 THAT WOULD INTERFERE WITH THE ELECTRIC, TELEPHONE, CABLE TELEVISION FACILITIES. 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.
- THE FOREGOING COVENANTS SET FORTH IN THIS PARAGRAPH B SHALL BE ENFORCEABLE BY THE SUPPLIER OF THE ELECTRIC, TELEPHONE, CABLE TELEVISION SERVICE AND THE OWNER OF THE LOT AGREES TO BE BOUND HEREBY.

C. WATER, SANITARY SEWER AND STORM SEWER SERVICE

- THE OWNER OF THE LOT SHALL BE RESPONSIBLE FOR THE PROTECTION OF THE PUBLIC WATER MAINS, SANITARY SEWER MAINS AND STORM SEWERS LOCATED ON THEIR LOT AND SHALL PREVENT THE ALTERATION OF GRADE OR ANY CONSTRUCTION ACTIVITY WHICH MAY INTERFERE WITH SAID PUBLIC WATER MAIN, PUBLIC SANITARY SEWER MAIN OR STORM SEWER.
- WITHIN THE UTILITY EASEMENT AREAS DEPICTED ON THE ACCOMPANYING PLAT, THE ALTERATION OF GRADE IN EXCESS OF 3 FEET FROM THE CONTOURS EXISTING UPON THE COMPLETION OF THE INSTALLATION OF A PUBLIC WATER MAIN, SANITARY SEWER MAIN OR STORM SEWER MAINS AND STORM SEWERS SHALL BE PROHIBITED.
- 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 CAUSES OR NECESSITATED BY ACTS OF THE OWNER, HIS AGENTS OR CONTRACTORS.
- 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 THIS DEED OF DEDICATION, FOR THE PURPOSE OF INSTALLING, MAINTAINING, REMOVING OR REPLACING ANY PORTION OF UNDERGROUND WATER OR SEWER FACILITIES.
- THE FOREGOING COVENANTS SET FORTH IN THIS PARAGRAPH C SHALL BE ENFORCEABLE BY THE CITY OF BROKEN ARROW, OKLAHOMA, OR IT'S SUCCESSORS, AND THE OWNER OF THE LOT AGREES TO BE BOUND HEREBY.

D. GAS SERVICE

- THE OWNER OF THE LOT SHALL BE RESPONSIBLE FOR THE PROTECTION OF THE UNDERGROUND GAS FACILITIES LOCATED ON THE LOT.
- WITHIN THE DEPICTED UTILITY EASEMENT AREAS, THE ALTERATION OF GRADE OR ANY CONSTRUCTION ACTIVITY, WHICH MAY INTERFERE WITH THE UNDERGROUND GAS FACILITIES, SHALL BE PROHIBITED.
- THE SUPPLIER OF GAS SERVICE OR ITS SUCCESSORS SHALL BE RESPONSIBLE FOR ORDINARY MAINTENANCE OF THE GAS FACILITIES, BUT THE OWNER SHALL PAY FOR DAMAGE OR RELOCATION OF SUCH FACILITIES CAUSED OR NECESSITATED BY ACTS OF THE OWNER, HIS AGENTS OR CONTRACTORS.
- THE SUPPLIER OF GAS SERVICE OR ITS SUCCESSORS SHALL AT ALL TIMES HAVE RIGHT OF ACCESS WITH THEIR EQUIPMENT TO ALL EASEMENT-WAYS DEPICTED ON THE PLAT OR OTHERWISE PROVIDED FOR IN THIS DEED OF DEDICATION FOR THE PURPOSE OF INSTALLING, MAINTAINING, REMOVING OR REPLACING ANY PORTION OF UNDERGROUND GAS FACILITIES.
- UNDERGROUND GAS SERVICE LINES TO ALL STRUCTURES WHICH MAY BE LOCATED WITHIN THE SUBDIVISION MAY BE RUN FROM THE NEAREST GAS MAIN TO THE POINT OF USAGE DETERMINED BY THE LOCATION AND CONSTRUCTION OR SUCH STRUCTURE AS MAY BE LOCATED UP ON THE LOTS, PROVIDED THAT UPON THE INSTALLATION OF A SERVICE LINE TO A PARTICULAR STRUCTURE, THE SUPPLIER OF SERVICE SHALL THEREAFTER BE DEEMED TO HAVE A DEFINITIVE PERMANENT AND EFFECTIVE EASEMENT ON THE LOT, COVERING A 5 FOOT STRIP EXTENDING 2.5 FEET ON EACH SIDE OF THE SERVICE LINE, EXTENDING FROM THE GAS MAIN TO THE SERVICE ENTRANCE ON THE STRUCTURE.
- THE FOREGOING COVENANTS SET FORTH IN THIS SUBSECTION D SHALL BE ENFORCEABLE BY THE SUPPLIER OF GAS SERVICE OR ITS SUCCESSORS AND THE OWNER OF THE LOT AGREES TO BE BOUND HEREBY.

E. STORMWATER DETENTION

- THE OWNER/DEVELOPER DOES HEREBY GRANT AND ESTABLISH A PERPETUAL EASEMENT ON, OVER AND ACROSS A PORTION OF THE LOT INDICATED AS "DETENTION EASEMENT" (HEREINAFTER REFERRED TO AS THE "DETENTION EASEMENT AREA") FOR THE PURPOSES OF PERMITTING THE FLOW, CONVEYANCE, DETENTION AND DISCHARGE TO STORMWATER RUNOFF FROM WITHIN THE SUBDIVISION.
- DETENTION AND OTHER DRAINAGE FACILITIES CONSTRUCTED WITHIN THE DETENTION EASEMENT AREAS SHALL BE IN ACCORDANCE WITH STANDARDS AND SPECIFICATIONS APPROVED BY THE CITY OF BROKEN ARROW, OKLAHOMA.
- DETENTION, AND OTHER DRAINAGE FACILITIES SHALL BE MAINTAINED BY THE OWNER/DEVELOPER TO THE EXTENT NECESSARY TO ACHIEVE THE INTENDED DRAINAGE, AND DETENTION FUNCTIONS INCLUDING REPAIR OF APPURTENANCES AND REMOVAL OF OBSTRUCTIONS AND SILTATION AND THE OWNER/DEVELOPER SHALL PROVIDE ROUTINE AND CUSTOMARY GROUNDS MAINTENANCE WITHIN THE DETENTION EASEMENT AREAS WHICH SHALL BE IN ACCORDANCE WITH THE FOLLOWING STANDARDS:
 - THE DETENTION EASEMENT AREAS SHALL BE KEPT FREE OF LITTER.
 - THE DETENTION EASEMENT AREAS SHALL BE MOWED DURING THE GROWING SEASON AT INTERVALS NOT EXCEEDING 4 WEEKS.
 - IN THE EVENT OF THE OWNER/DEVELOPER SHOULD FAIL TO PROPERLY MAINTAIN THE DETENTION EASEMENT AREAS AS ABOVE PROVIDED, THE CITY OF BROKEN ARROW, OKLAHOMA, OR ITS DESIGNATED CONTRACTOR MAY ENTER THE DETENTION EASEMENT AREAS AND PERFORM SUCH MAINTENANCE, AND THE COST THEREOF SHALL BE PAID BY THE OWNER/DEVELOPER.
 - IN THE EVENT THE OWNER/DEVELOPER, 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 OF RECORD A COPY OF THE STATEMENT OF COSTS AND THEREAFTER THE COSTS SHALL BE A LIEN AGAINST THE SUBDIVISION.

- EACH LOT SHALL RECEIVE AND DRAIN, IN AN UNOBSTRUCTED MANNER, THE STORM AND SURFACE WATERS FROM LOTS AND DRAINAGE AREAS OF HIGHER ELEVATION AND FROM PUBLIC STREETS AND EASEMENTS. THE OWNER/DEVELOPER SHALL NOT CONSTRUCT NOR PERMIT TO BE CONSTRUCTED ANY FENCING OR OTHER OBSTRUCTIONS WHICH WOULD IMPAIR THE DRAINAGE OF STORM AND SURFACE WATERS OVER AND ACROSS THE SUBDIVISION. THE FOREGOING COVENANTS SET FORTH IN THIS PARAGRAPH E SHALL BE ENFORCEABLE 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 THE PROPERTY ADJACENT TO SOUTH ELM PLACE (SOUTH 161ST EAST AVENUE) WITHIN THE BOUNDS DESIGNATED AS "LIMITS OF NO ACCESS" (L.N.A.) ON THE ACCOMPANYING PLAT, WHICH "LIMITS OF NO ACCESS" MAY BE AMENDED OR RELEASED BY THE BROKEN ARROW AREA PLANNING COMMISSION, OR ITS SUCCESSOR, AND WITH THE APPROVAL OF THE OKLAHOMA TURNPIKE AUTHORITY AND 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 OKLAHOMA TURNPIKE AUTHORITY AND THE CITY OF BROKEN ARROW.

G. PAVING AND LANDSCAPING WITHIN EASEMENTS

THE OWNER OF THE LOT AFFECTED SHALL BE RESPONSIBLE FOR THE REPAIR OF DAMAGE TO LANDSCAPING AND PAVING OCCASIONED BY NECESSARY INSTALLATION OR MAINTENANCE OF UNDERGROUND WATER, SEWER, STORM SEWER, NATURAL GAS, COMMUNICATION, CABLE TELEVISION OR ELECTRIC FACILITIES WITHIN THE EASEMENT AREAS DEPICTED UPON THE ACCOMPANYING PLAN, PROVIDED HOWEVER, THE CITY OF BROKEN ARROW, OKLAHOMA OR THE SUPPLIER OF THE UTILITY SERVICE SHALL USE REASONABLE CARE IN THE PERFORMANCE OF SUCH ACTIVITIES.

H. OVERLAND DRAINAGE EASEMENT

- THE OWNER DOES HEREBY DEDICATE TO THE PUBLIC A PERPETUAL OVERLAND EASEMENT ON, OVER, AND ACROSS THE PROPERTY DESIGNATED AND SHOWN ON THE ACCOMPANYING PLAT AS "OVERLAND DRAINAGE EASEMENT" FOR THE PURPOSES OF PROTECTING AND PROVIDING ACCESS TO THE 100-YEAR FLOODPLAIN LOCATED WITHIN THE OVERLAND DRAINAGE EASEMENT. THE OVERLAND DRAINAGE EASEMENT IS HEREBY ESTABLISHED TO RECEIVE AND DRAIN, IN AN UNOBSTRUCTED MANNER, THE STORM AND SURFACE WATERS FROM LOTS AND DRAINAGE AREAS OF HIGHER ELEVATION AND FROM HIGHWAYS, PUBLIC STREETS AND EASEMENTS.
- THE OVERLAND DRAINAGE EASEMENT SHALL REMAIN AS A NATURAL UNIMPROVED AREA PROVIDED REMOVAL OF UNDERBRUSH AND GROUND MAINTENANCE SHALL BE PERMITTED. SUPPLEMENTAL LANDSCAPING MAY BE PERMITTED IF IT DOES NOT IMPAIR THE DRAINAGE OF STORM AND SURFACE WATERS OVER AND ACROSS THE OVERLAND DRAINAGE EASEMENT AND WRITTEN PERMISSION FROM THE CITY OF BROKEN ARROW ENGINEERING DEPARTMENT HAS BEEN GRANTED. NOTWITHSTANDING THAT THE OWNER/DEVELOPER SHALL MAINTAIN THE OVERLAND DRAINAGE EASEMENT AS A NATURAL UNIMPROVED AREA, THE OWNER/DEVELOPER SHALL COMPLY WITH ALL STATE STATUTES AND ORDINANCES OF THE CITY OF BROKEN ARROW, OKLAHOMA, OR ITS SUCCESSORS, REGULATING THE EXISTENCE OF PUBLIC AND PRIVATE NUISANCES.
- THE OWNER/DEVELOPER SHALL NOT CONSTRUCT NOR PERMIT TO BE CONSTRUCTED ANY FENCING OR OTHER OBSTRUCTIONS WHICH WOULD IMPAIR THE DRAINAGE OF STORM AND SURFACE WATERS OVER AND ACROSS THE OVERLAND DRAINAGE EASEMENT. IN THE EVENT THE OWNER/DEVELOPER SHOULD FAIL TO PROPERLY MAINTAIN THE OVERLAND DRAINAGE EASEMENT OR, IN THE EVENT OF THE PLACEMENT OF AN OBSTRUCTION WITHIN, OR THE ALTERATION OF THE GRADE, THE CITY OF BROKEN ARROW, OKLAHOMA, OR ITS DESIGNATED CONTRACTOR MAY ENTER AND PERFORM MAINTENANCE NECESSARY TO ACHIEVE THE INTENDED DRAINAGE FUNCTIONS AND MAY REMOVE ANY OBSTRUCTION OR CORRECT ANY ALTERATION OF GRADE, AND THE COST SHALL BE PAID BY THE OWNER/DEVELOPER. IN THE EVENT THE OWNER/DEVELOPER FAILS TO PAY THE COST OF MAINTENANCE AFTER RECEIPT OF A STATEMENT OF COSTS, THE CITY OF BROKEN ARROW, OKLAHOMA, MAY FILE OF RECORD A COPY OF THE STATEMENT OF COSTS IN THE LAND RECORDS OF THE TULSA COUNTY CLERK, AND THEREAFTER THE COSTS SHALL BE A LIEN AGAINST THE SUBDIVISION. A LIEN ESTABLISHED AS ABOVE PROVIDED MAY BE FORECLOSED BY THE CITY OF BROKEN ARROW, OKLAHOMA.

SECTION II. ENFORCEMENT, DURATION, AMENDMENT AND SEVERABILITY

A. 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. 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. IF THE UNDERSIGNED OWNER/DEVELOPER, OR ITS SUCCESSORS OR ASSIGNS, SHALL VIOLATE ANY OF THE COVENANTS WITHIN SECTION I., IT SHALL BE LAWFUL FOR THE SUPPLIER OF UTILITY SERVICE OR THE CITY OF BROKEN ARROW, OKLAHOMA OR ANY OWNER OF A LOT 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 LOT 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 ATTORNEY'S FEES AND COSTS AND EXPENSES INCURRED IN SUCH ACTION.

B. 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.

APPROVED 11-5-2013 by the
City Council of the City of Broken Arrow,
Oklahoma
Mayor [Signature]
Attest: City Clerk [Signature]

CITY OF BROKEN ARROW CASE #PT13-108

SHEET 2 OF 3
DATE OF PREPARATION: 01/22/2014

C. AMENDMENT

THE COVENANTS CONTAINED WITHIN SECTION I. 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 PROVISIONS OF ANY INSTRUMENT AMENDING OR TERMINATING COVENANTS AS ABOVE SET FORTH SHALL BE EFFECTIVE FROM AND AFTER THE DATE IT IS PROPERLY RECORDED.

D. 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, LIFE COVENANT CHURCH, INC. HAS EXECUTED THIS INSTRUMENT

THIS 29 DAY OF JANUARY, 2014

BY Kevin Penry
KEVIN PENRY
VICE PRESIDENT OPERATIONS

STATE OF OKLAHOMA)
COUNTY OF OKLAHOMA) SS.)

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THIS 29 DAY OF JANUARY, 2014.

BY KEVIN PENRY, VICE PRESIDENT OPERATIONS

Gina M. Evraets
NOTARY PUBLIC

MY COMMISSION EXPIRES January 2, 2017



CERTIFICATE OF SURVEY

I, R. Wade Bennett, A REGISTERED PROFESSIONAL LAND SURVEYOR, IN THE STATE OF OKLAHOMA, DO HEREBY CERTIFY THAT I HAVE CAREFULLY AND ACCURATELY SURVEYED, SUBDIVIDED, AND PLATTED THE TRACT OF LAND DESCRIBED ABOVE, AND THAT THE ACCOMPANYING PLAT DESIGNATED HEREIN AS "LIFECHURCH.TV BROKEN ARROW SOUTH", A SUBDIVISION IN THE CITY OF BROKEN ARROW, TULSA COUNTY, STATE OF OKLAHOMA, IS A REPRESENTATION OF THE SURVEY MADE ON THE GROUND USING GENERALLY ACCEPTED PRACTICES AND MEETS OR EXCEEDS THE OKLAHOMA MINIMUM STANDARDS FOR THE PRACTICE OF LAND SURVEYING.

EXECUTED THIS 6 DAY OF FEBRUARY, 2014.

BY R. Wade Bennett

REGISTERED PROFESSIONAL LAND SURVEYOR,
OKLAHOMA NUMBER 1556



STATE OF OKLAHOMA)
COUNTY OF TULSA) SS.)

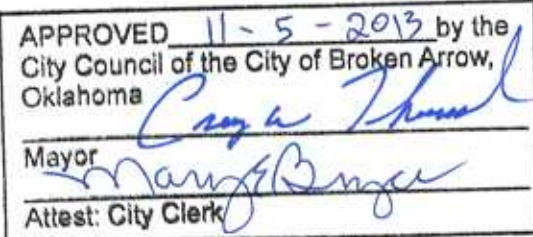
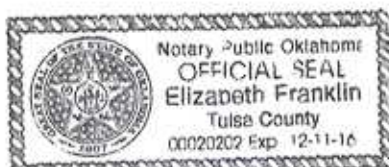
THE FOREGOING CERTIFICATE OF SURVEY WAS ACKNOWLEDGED BEFORE ME ON

THIS 6 DAY OF February, 2014.

BY R. WADE BENNETT, REGISTERED PROFESSIONAL LAND SURVEYOR

Elizabeth Franklin
NOTARY PUBLIC

12-11-14
MY COMMISSION EXPIRES





City of Broken Arrow

Request for Action

File #: 20-1207, **Version:** 1

**Broken Arrow Planning Commission
10-08-2020**

To: Chairman and Commission Members
From: Development Services Department
Title: Consideration and possible approval of the 2021 Planning Commission meeting and calendar schedule

Background:

For the past several years, Planning Commission meetings have been scheduled for the second and fourth Thursday of each month, at 5:00 p.m., with exceptions in November and December. Planning Commission meetings have been scheduled for the first and third Thursday of each month during the months of, November and December, at 5:00 p.m.

Attachments: 2021 Planning Commission Meeting Dates

Recommendation:

Staff recommends approval of the Planning Commission meeting schedule for meetings scheduled on the second and fourth Thursday of each month from January through October, and meetings scheduled for the first and third Thursday of each month during November and December. Meetings shall occur at 5:00 pm in the City Council Chambers.

Reviewed By: Jill Ferenc

Approved By: Larry R. Curtis

ALY

**2021 CALENDAR YEAR
SCHEDULE OF REGULAR MEETINGS
Planning Commission
CITY HALL COUNCIL CHAMBERS
220 SOUTH FIRST STREET
BROKEN ARROW, OKLAHOMA**

<u>DATE</u>	<u>TIME</u>	<u>PLACE</u>
January 14, 2021	5:00 p.m.	Council Chambers
January 28, 2021	5:00 p.m.	Council Chambers
February 11, 2021	5:00 p.m.	Council Chambers
February 25, 2021	5:00 p.m.	Council Chambers
March 11, 2021	5:00 p.m.	Council Chambers
March 25, 2021	5:00 p.m.	Council Chambers
April 08, 2021	5:00 p.m.	Council Chambers
April 22, 2021	5:00 p.m.	Council Chambers
May 13, 2021	5:00 p.m.	Council Chambers
May 27, 2021	5:00 p.m.	Council Chambers
June 10, 2021	5:00 p.m.	Council Chambers
June 24, 2021	5:00 p.m.	Council Chambers
July 08, 2021	5:00 p.m.	Council Chambers
July 22, 2021	5:00 p.m.	Council Chambers
August 12, 2021	5:00 p.m.	Council Chambers
August 26, 2021	5:00 p.m.	Council Chambers
September 09, 2021	5:00 p.m.	Council Chambers
September 23, 2021	5:00 p.m.	Council Chambers
October 14, 2021	5:00 p.m.	Council Chambers
October 28, 2021	5:00 p.m.	Council Chambers
November 04, 2021	5:00 p.m.	Council Chambers
November 18, 2021	5:00 p.m.	Council Chambers
December 02, 2021	5:00 p.m.	Council Chambers
December 16, 2021	5:00 p.m.	Council Chambers

Posted this _____ day of _____ 2020, at _____ am/pm

Signed: _____
City Clerk