

***HENRICKSEN & HENRICKSEN
LAWYERS, INC.***

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*Mark Henricksen
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January 10, 2023

City of Oklahoma City Planning Commission
City Hall
200 N Walker Avenue, Third Floor
Oklahoma City, Oklahoma 73102

IN RE: CE-1089, Application by NGH, LLC.

Guilford Capital LLC's Brief Submission of Opposition to Application to Close Platted Roadway, with Attached Maps in Support of Opposition.

Dear Members of the Planning Commission:

Guilford Capital, LLC, purchased property within the Biltmore Heights Addition from The City of Oklahoma City in 2018 for \$88,600. If the City allows the request by NGH, LLC to close a platted roadway, which existed at the time of conveyance by the City, then the property Guilford purchased from the City will be landlocked. The Court in *Johnson v. Suttles*, 227 P.3d 664, 669 (Okla. Civ. Ap. 2009) cited the Restatement (First) of Property § 476, Comment (g):

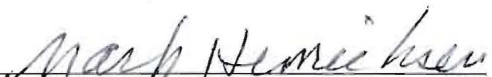
If no use can be made of land conveyed or retained without the benefit of an easement, it is assumed that the parties intended the easement to be conveyed.

The land purchased from the City is a triangular piece of property zoned R-1. The map attached to Application CE-1089 shows the piece of land lying East of Classen Blvd. See Map attached showing Guilford's land which Guilford has highlighted in yellow. While NGH's application does not indicate the following, it is possible from NGH's map that the applicant may intend to leave one-half of a short portion of the platted roadway adjoining Guilford's land as an access to Guilford's land. See Map attached showing applicant's possible intent to leave some inadequate access highlighted by Guilford in pink. Exhibit 1. However, Guilford's property would still be landlocked because the road from Classen to Guilford's land has previously been vacated in 1983. See attached Exhibit 2. Therefore, Guilford has no access to its land from Classen. There obviously is no access to Guilford's land from NW 66th Street because that property lying South of NW 66th Street is owned by third parties, with no road to Guilford's property.

The only possibility of access to Guilford's property is from NW 65th Street, which is what the applicant requests be closed. It is against public policy to landlock an owner's property and NGH's application to close the platted roadway should be denied.

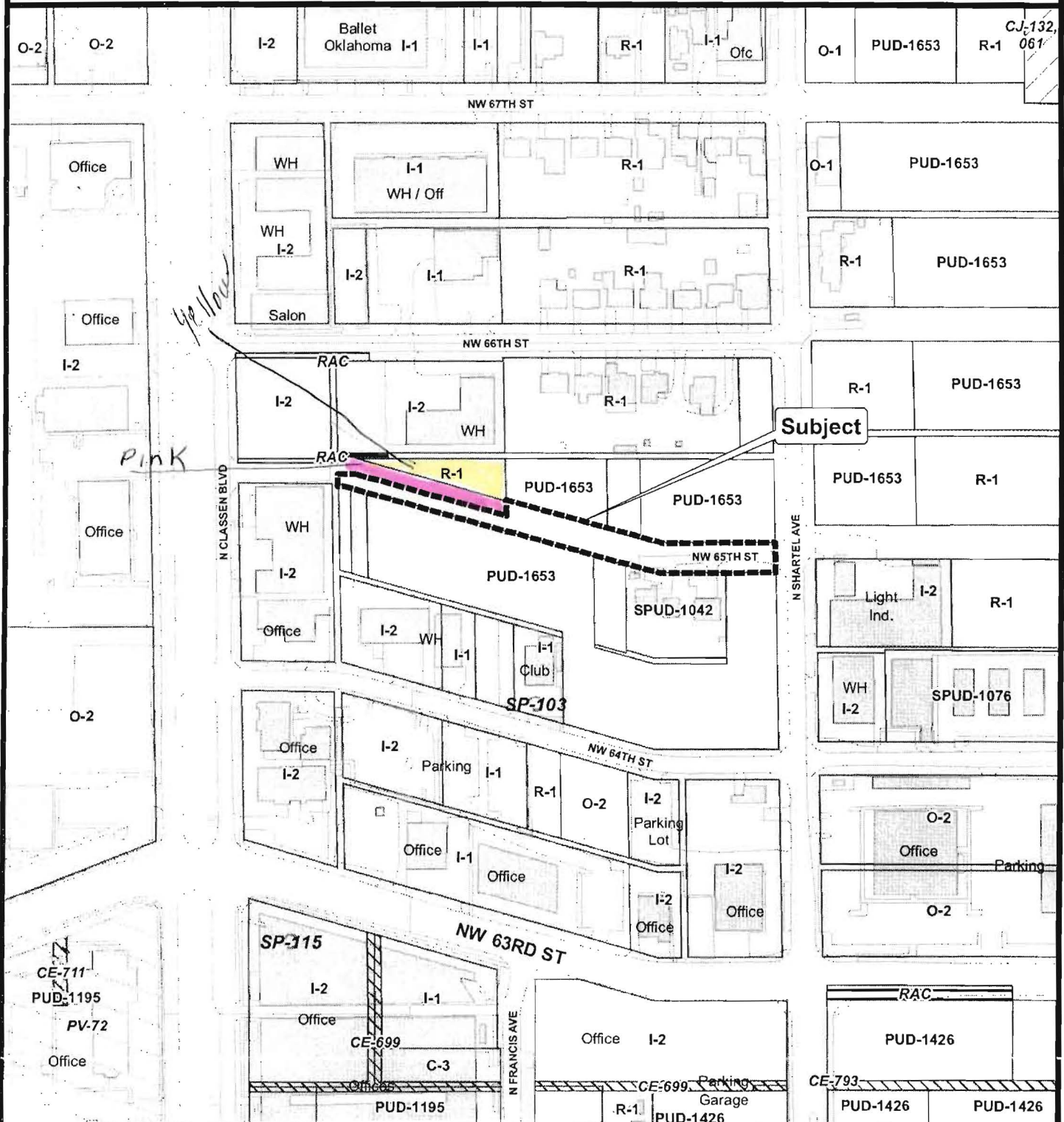
Sincerely,

HENRICKSEN & HENRICKSEN
LAWYERS, INC.


MARK HENRICKSEN

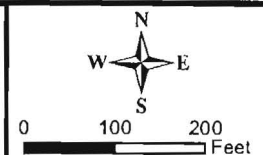
Case No: CE-1089
Applicant: NHG, LLC
Location: 801 NW 64th St.

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EXHIBIT
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The City of
OKLAHOMA CITY

Application for Closing
Public Way or Easement



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83276

IN THE DISTRICT COURT WITHIN AND FOR OKLAHOMA CITY, OKLAHOMA
STATE OF OKLAHOMA

IN THE MATTER OF THE APPLICATION)
OF STANDARD BUILDERS SUPPLY,)
INC., FOR A DECREE VACATING A)
PORTION OF BILTMORE HEIGHTS)
ADDITION TO OKLAHOMA CITY,)
OKLAHOMA.)

FILED IN THE DISTRICT COURT
OKLAHOMA CITY, OKLAHOMA

JUL 6 1983

DAN GRAY, Court Clerk
By *[Signature]*
DEPUTY

No. CJ-83-3169

STATE OF OKLAHOMA
OKLAHOMA COUNTY
RECORDED OR FILED

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STATE OF OKLAHOMA
OKLAHOMA COUNTY
RECORDED OR FILED

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JOURNAL ENTRY OF JUDGMENT

Now on this 5th day of July, 1982, the above entitled cause comes on for hearing pursuant to regular assignment, the applicant, Standard Builders Supply, Inc., appeared by its attorney of record, William E. Collins, III, and the City of Oklahoma City appeared by Jerry R. Fent, Assistant Municipal Counselor. The other parties served with notice of this action, Oklahoma Gas and Electric Company, Oklahoma Natural Gas Company, Southwestern Bell Telephone Company, Cox Cable of Oklahoma City, Inc., Board of County Commissioners of Oklahoma County, and Pan Oklahoma Communications of Oklahoma City, Inc., have heretofore entered their appearances and disclaimed any interest in this matter. There being no other appearances, the Court directed the matter to proceed.

The Court thereupon examined the records and finds that due and proper notice of this hearing was served upon the City of Oklahoma City by registered mail upon Andy Coats, Mayor, and upon the registered service agents of Southwestern Bell Telephone Company, Oklahoma Gas and Electric Company, Oklahoma Natural Gas Company, the Board of County Commissioners of Oklahoma County, Cox Cable of Oklahoma City, Inc., and Pan Oklahoma Communications of Oklahoma City, Inc.; that proper notice was published for more than 30 days prior to this hearing in the Daily Law Journal Record, a newspaper qualified to publish legal notices in Oklahoma County, Oklahoma, that notice of this action was mailed to all owners of property within 300 feet of the street being vacated by the attorney for the applicant; that attached to the application

[Signature]
MCLELLAND COLLINS
BAILEY, BAILEY &
MANCHESTER
800 HIGHWAY 9 BUILDING
OKLAHOMA CITY, OKLA
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EXHIBIT

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is a verified abstracter's list of such persons owning property within 300 feet of the street sought to be vacated; and that in all other respects the applicant has fully complied with the provisions of 11 O.S. §42-103 (Supp. 1979).

The Court thereupon directed the applicant to proceed and the applicant introduced its evidence and rested, and no other evidence was offered.

The Court finds that the applicant has sustained the material allegations of its application to the effect that the portions of the street sought to be vacated is not required for town or city purposes, or for the use of the public, and that it has not been opened and used by the public. The Court further finds that the portion of the street sought to be vacated is not required for the use of Southwestern Bell Telephone Company, Oklahoma Gas and Electric Company, Oklahoma Natural Gas Company, the Board of County Commissioners of Oklahoma County, Cox Cable of Oklahoma City, Inc., or Pan Oklahoma Communications of Oklahoma City, Inc., as evidenced by their entries of appearance and disclaimers. The Court further finds that the City of Oklahoma City does have a certain sanitary sewer running through a portion of the street sought to be vacated and the easement of the City of Oklahoma City for said utility line is specifically reserved as hereinafter set forth.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the following described property, a portion of the platted street dedicated for public use, including use by franchise holders, to-wit:

Northwest 65th Street, originally platted as Mitchell Avenue, where it is platted adjacent to Lot One (1), Block Two (2), BILTMORE HEIGHTS ADDITION, and adjacent to the West Half (W/2) of the vacated ten (10) foot alley running North-South and which abuts Lot One (1) on its Eastern end, or, otherwise described as that part of Northwest 65th Street where it extends from Classen Boulevard East 145 feet;

be and the same is hereby vacated, annulled and set aside and

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the rights of the public, the City of Oklahoma City, Oklahoma County, and all franchise holders to use the above portion of the street, are hereby terminated and the applicant is vested with fee simple title to said vacated street, except as herein provided.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the City of Oklahoma City shall continue to have a fifteen (15) foot utility easement for a sanitary sewer line in place, across the North fifteen (15) feet and the East five (5) feet of the portion of the street being vacated, and the right of ingress and egress to continue to enter upon, maintain, operate and reconstruct said sanitary sewer utility facilities in, upon, under and across said vacated street.

Chas. H. Pann
JUDGE OF THE DISTRICT COURT

APPROVED:

McCLELLAND, COLLINS, BAILEY,
BAILEY & MANCHESTER

By: *William F. Collins*
WILLIAM F. COLLINS, III
Attorneys for Applicant

WALTER M. POWELL
Municipal Counselor

By: *Jerry R. Fent*
JERRY R. FENT
Assistant Municipal Counselor

I, DAN GRAY, Court Clerk for Oklahoma County, hereby certify that the foregoing is a correct and complete copy of the instrument as set out as appears of record in the District Clerk's Office of Oklahoma County, Okla., this 6 day of *June*, 1983.

By: *Dan Gray* DAN GRAY, Court Clerk
Deputy